S T A T E O F N E W Y O R K

10520

I N A S S E M B L Y

May 31, 2016

Introduced by M. of A. WEPRIN -- read once and referred to the Committee on Transportation

AN ACT to amend the insurance law and the transportation law, in relation to wheelchair and scooter accessibility for passengers using transportation network companies, ridesharing, taxi and livery services, in compliance with the Americans with Disabilities Act and applicable New York state human and civil rights laws

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The insurance law is amended by adding a new section 3441 to read as follows:

S 3441. TRANSPORTATION NETWORK COMPANIES. (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THIS SECTION SHALL APPLY TO TRANSPORTATION NETWORK COMPANIES.

(B) FOR PURPOSES OF THIS SECTION THE FOLLOWING DEFINITIONS SHALL APPLY:

(1) "ACCESSIBLE TO PERSONS WITH DISABILITIES" SHALL MEAN ANY VEHICLE THAT IS EQUIPPED WITH A LIFT, RAMP, OR ANY OTHER DEVICE, ARRANGEMENT OR ALTERATION, SO THAT SUCH VEHICLE IS CAPABLE OF ALLOWING ENTRY AND EXIT FROM THE SIDE OR REAR OF SUCH VEHICLE AND TRANSPORTING PERSONS WITH PHYSICAL DISABILITIES, INCLUDING THOSE WHO USE WHEELCHAIRS, SCOOTERS AND SIMILAR DEVICES WHILE SUCH PERSONS REMAIN SEATED IN THEIR WHEELCHAIRS, SCOOTERS OR SIMILAR DEVICES IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND APPLICABLE NEW YORK STATE HUMAN AND CIVIL RIGHTS LAWS;

(2) "TRANSPORTATION NETWORK COMPANY" SHALL MEAN A CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP, OR OTHER ENTITY THAT IS OPERATING IN THIS STATE THAT USES A DIGITAL NETWORK TO CONNECT TRANSPORTATION NETWORK COMPANY RIDERS TO TRANSPORTATION NETWORK COMPANY DRIVERS WHO PROVIDE PREARRANGED RIDES. A TRANSPORTATION NETWORK COMPANY SHALL NOT BE DEEMED TO CONTROL, DIRECT OR MANAGE THE PERSONAL VEHICLES OR TRANSPORTATION NETWORK COMPANY DRIVERS THAT CONNECT TO ITS DIGITAL NETWORK, EXCEPT WHERE AGREED TO BY WRITTEN CONTRACT.

(C) UPON ENACTMENT OF ANY INSURANCE REQUIREMENTS THAT ALLOW FOR THE SALE OF POLICIES TO ENSURE PASSENGER VEHICLES FOR "RIDE-SHARE" PROGRAMS,

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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NO SUCH VEHICLE CAN BE DEPLOYED BY ANY SMART PHONE BASED APPLICATION OR OTHER COMPUTER OR ELECTRONIC DEVICE-GENERATED DISPATCH UNLESS NO FEWER THAN FIVE PERCENT OF THE RIDES PROVIDED BY FOR-HIRE VEHICLES OPERATED BY DRIVERS WHO ARE AFFILIATED WITH THE RIDE-SHARE PROGRAM IN A SPECIFIC MUNICIPAL CATCHMENT AREA SERVED BY THE SMART PHONE BASE ARE IN VEHICLES ACCESSIBLE TO PERSONS WITH DISABILITIES, WITH A MINIMUM OF AT LEAST ONE WHEELCHAIR-ACCESSIBLE VEHICLE, IN THE LAST MONTH OF THE FIRST TWELVE MONTH PERIOD FOLLOWING ENACTMENT OF THIS LEGISLATION, WHETHER OR NOT THE PASSENGER REQUIRES A WHEELCHAIR-ACCESSIBLE VEHICLE; NO FEWER THAN FIFTEEN PERCENT IN VEHICLES ACCESSIBLE TO PERSONS WITH DISABILITIES IN THE LAST MONTH OF THE SECOND TWELVE MONTH PERIOD; AND TWENTY-FIVE PERCENT OF THE FOURTH TWELVE MONTH PERIOD.

(D) THERE SHALL BE PARITY IN RESPONSE TIMES BETWEEN VEHICLES THAT ARE NOT AND THOSE THAT ARE ACCESSIBLE TO PERSONS WITH DISABILITIES.

(E) A TRANSPORTATION NETWORK COMPANY SHALL NOT IMPOSE ANY ADDITIONAL CHARGE FOR THE TRANSPORTATION OF A PERSON WITH A DISABILITY, FOR MOBILITY EQUIPMENT REQUIRED BY A PERSON WITH A DISABILITY, FOR AN AIDE REQUIRED BY A PERSON WITH A DISABILITY OR FOR A SERVICE ANIMAL REQUIRED BY A PERSON WITH A DISABILITY.

(F) NO TRANSPORTATION NETWORK COMPANY AND NO DRIVER AFFILIATED WITH SUCH TRANSPORTATION NETWORK COMPANY WHO IS OPERATING A VEHICLE ACCESSIBLE TO PERSONS WITH DISABILITIES SHALL REFUSE TRANSPORTATION TO A PERSON WITH A DISABILITY OR TO A SERVICE ANIMAL REQUIRED BY A PASSENGER WITH A DISABILITY.

(G) A TRANSPORTATION NETWORK COMPANY, DRIVERS AFFILIATED WITH A TRANSPORTATION NETWORK COMPANY OR ANY OTHER THIRD PARTY WHO IS OPERATING RIDE-SHARE SERVICE ON BEHALF OF THE TRANSPORTATION NETWORK COMPANY OR DRIVER SHALL NOT BE PERMITTED TO CONTRACT WITH, USE, OTHERWISE ASSIGN OR IN ANY WAY FORMALLY OR INFORMALLY ARRANGE FOR THE TRANSPORTATION OF WHEELCHAIR OR SCOOTER USERS BY ANY OUTSIDE SERVICE PROVIDER, WHETHER PRIVATE OR PUBLIC, AND MUST PROVIDE SERVICE EXCLUSIVELY WITHIN THEIR OWN NETWORK.

(H) TRANSPORTATION NETWORK COMPANIES MUST SUPPLY PERFORMANCE INFORMATION TO THE DEPARTMENT OF TRANSPORTATION FOR ANY AND ALL CALENDAR MONTHS, WITHIN THIRTY DAYS OF COMMENCING OPERATION IN THE STATE. SUCH INFORMATION MUST BE POSTED PUBLICLY ONLINE BY THE DEPARTMENT OF TRANSPORTATION AND SHALL INCLUDE, BUT IS NOT LIMITED TO: (1) THE NUMBER AND PERCENTAGE OF ACCESSIBLE AND NON-ACCESSIBLE VEHICLES THE TRANSPORTATION NETWORK COMPANY HAS AFFILIATED WITH IN ALL AREAS OF THE STATE AND BY GEOGRAPHIC CATCHMENT AREA; (2) THE NUMBER OF DRIVERS THE TRANSPORTATION NETWORK COMPANY HAS AFFILIATED WITH AND THE NUMBER AND PERCENTAGE OF DRIVERS WHO HAVE RECEIVED ACCESSIBILITY TRANSPORTATION TRAINING IN ALL AREAS OF THE STATE AND BY GEOGRAPHIC CATCHMENT AREA; (3) THE NUMBER AND PERCENTAGE OF RIDES IN ACCESSIBLE VEHICLES AND THE NUMBER AND PERCENTAGE OF RIDES IN NON-ACCESSIBLE VEHICLES THE TRANSPORTATION NETWORK COMPANY HAS PROVIDED IN ALL AREAS OF THE STATE AND BY GEOGRAPHIC CATCHMENT AREA; AND (4) THE AVERAGE RESPONSE TIME FOR ACCESSIBLE AND NON-ACCESSIBLE VEHICLES IN ALL AREAS OF THE STATE AND BY GEOGRAPHIC CATCHMENT AREA. THE DEPARTMENT ALSO SHALL RELEASE AN ANNUAL REPORT SUMMARIZING THIS INFORMATION BY COMPANY AND GEOGRAPHIC AREA, ANY ADDITIONAL COMMENTS OR COMPLAINTS IT HAS RECEIVED ABOUT SERVICE, INCLUDING SERVICE REFUSALS, AND MAY INCLUDE RECOMMENDATIONS FOR PERFORMANCE IMPROVEMENT OR ADDITIONAL PERFORMANCE MEASUREMENTS IF NECESSARY AND IN CONSULTATION WITH THE TASK FORCE FOR TAXI AND TRANSPORTATION NETWORK ACCESSIBILITY.

(I) ANY AND ALL TRANSPORTATION NETWORK COMPANIES WISHING TO OPERATE IN THE STATE MUST FORMALLY DEMONSTRATE TO THE DEPARTMENT OF TRANSPORTATION

THAT IT HAS MET THE ACCESSIBILITY REQUIREMENTS DEFINED IN SUBDIVISION (C) OF THIS SECTION IN ORDER TO OPERATE. FAILURE TO COMPLY WITH SUBDIVISION (C) OF THIS SECTION WILL RESULT IN A FINE OF AT LEAST FIFTY DOLLARS AND NO MORE THAN ONE HUNDRED FIFTY PER DAY FROM THE DATE OF VIOLATION UNTIL COMPLIANCE IS MET. A VIOLATION CAN ALSO RESULT IN REVOCATION OR DENIAL OF LICENSING OR REGISTRATION. THE DEPARTMENT OF TRANSPORTATION SHALL HAVE THE POWER TO DENY OR SUSPEND PERMISSION TO OPERATE AT ANY TIME IF IT DEEMS A TRANSPORTATION NETWORK COMPANY HAS NOT MET THE ACCESSIBILITY REQUIREMENTS OF THIS LAW; OR, THE MUNICIPAL OFFICERS AND BOARDS IN THE CITIES, TOWNS AND VILLAGES OF THIS STATE NOW HAVING THE AUTHORITY TO ENACT ORDINANCES, SHALL ADOPT ORDINANCES REGULATING THE REGISTRATION, LICENSING, AND FEES FOR LACK OF COMPLIANCE WITH THIS SUBDIVISION OF RIDESHARING, TAXICABS AND LIMOUSINES, AND MAY LIMIT THE NUMBER OF RIDESHARING, TAXICABS AND LIMOUSINES TO BE LICENSED.

(J) THE DEPARTMENT OF TRANSPORTATION SHALL CREATE A MECHANISM TO COLLECT COMPLAINTS ABOUT SERVICE QUALITY, REFUSALS OR OTHER MATTERS RELATED TO ACCESSIBLE TRANSPORTATION FROM CUSTOMERS AND POTENTIAL CUSTOMERS OF TRANSPORTATION NETWORK COMPANIES, TAXIS AND LIVERY SERVICE AND SHALL RELEASE THIS INFORMATION PUBLICLY ON OR BEFORE DECEMBER THIRTY-FIRST OF EACH CALENDAR YEAR, BEGINNING IN THE CALENDAR YEAR THIS SECTION TAKES EFFECT.

(K) TRANSPORTATION NETWORK COMPANIES SHALL DEVELOP A DRIVER ACCESSIBILITY-TRAINING PLAN TO ENSURE THAT ALL OF ITS AFFILIATED DRIVERS OF ACCESSIBLE VEHICLES ARE FAMILIAR WITH ACCESSIBLE TAXIS, HOW TO SECURE PASSENGERS IN WHEELCHAIRS AND SCOOTERS AND HOW TO TREAT PERSONS USING WHEELCHAIRS AND SCOOTERS APPROPRIATELY. THIS MAY BE DEVELOPED IN COOPERATION WITH INDEPENDENT LIVING CENTERS OR OTHER DISABILITY ADVOCACY ORGANIZATIONS IN THE STATE. TRANSPORTATION NETWORK COMPANIES MUST SUBMIT A DESCRIPTION OF THE PLAN AND ANY ACCOMPANYING MATERIALS TO THE DEPARTMENT OF TRANSPORTATION AND THESE MATERIALS MUST BE POSTED ONLINE PUBLICLY.

S 2. Section 14 of the transportation law is amended by adding two new subdivisions 36 and 37 to read as follows:

36. TO ESTABLISH A TASK FORCE, IN CONJUNCTION WITH THE DEPARTMENT OF HEALTH FOR TAXI AND TRANSPORTATION NETWORK ACCESSIBILITY AND TO PROVIDE STAFF MEMBERS TO ASSIST IN RESEARCH AND THE DEVELOPMENT OF PROPOSALS. MEMBERS OF SUCH TASK FORCE SHALL INCLUDE, BUT NOT BE LIMITED TO, REPRESENTATIVES FROM STATEWIDE AND LOCAL DISABILITY ADVOCACY GROUPS, INDEPENDENT LIVING CENTERS, PERSONS FROM THOSE ORGANIZATIONS OR OTHERS WHO USE WHEELCHAIRS AND SCOOTERS, TAXI OWNERS, TRANSPORTATION NETWORK COMPANIES, DRIVER REPRESENTATIVES, AFFECTED MUNICIPAL OFFICIALS AND STATE OFFICIALS. THE TASK FORCE SHALL:

(A) DEVELOP A TRANSITION PLAN FOR RIDESHARING, TAXI AND LIVERY ACCESSIBILITY FOR STATE RESIDENTS AT A LEVEL COMPARABLE TO OR EXCEEDING TWENTY-FIVE PERCENT ACCESSIBILITY AND PROVIDED BY ALL NON-TRANSPORTATION NETWORK COMPANIES WHO PROVIDE RIDESHARING, TAXI AND LIVERY SERVICE IN ALL AREAS OF THE STATE OUTSIDE OF THE CITY OF NEW YORK. THIS PLAN MAY INCLUDE AN EXAMINATION OF THE OPERATIONAL AND FINANCIAL CHANGES MUNICIPALITIES, THE STATE OR RIDESHARING, TAXI AND LIVERY PROVIDERS THEMSELVES MAY NEED TO OFFER INCREASED ACCESSIBLE SERVICE AND ALSO MAY INCLUDE A SCHEDULE FOR THE TRANSITION, WHICH MAY INCLUDE ADDITIONAL PLANS TO INCREASE SERVICE TO FULL, ONE HUNDRED PERCENT ACCESSIBILITY. THIS PLAN SHALL BE DELIVERED TO THE DEPARTMENT OF TRANSPORTATION, THE SPEAKER OF THE STATE ASSEMBLY, THE ASSEMBLY MINORITY CONFERENCE LEADER, AND THE MAJORITY AND MINORITY LEADERS OF THE STATE SENATE BY NO LATER THAN MAY FIRST, TWO THOUSAND SEVENTEEN.

(B) REVIEW THE EXTENT OF ACCESSIBILITY AND QUALITY OF SERVICE PROVIDED FOR PERSONS WHO REQUIRE ACCESSIBLE SERVICE BY TRANSPORTATION NETWORK COMPANIES AND, IF APPROPRIATE, MAKE RECOMMENDATIONS FOR RULE-MAKING BY THE DEPARTMENT OF TRANSPORTATION OR LEGISLATION TO INCREASE OR IMPROVE SERVICE.

37. TO CREATE AND MAINTAIN A SYSTEM THAT IS ACCESSIBLE FOR PERSONS WITH DISABILITIES TO SUBMIT COMPLAINTS, COMMENTS AND SUGGESTIONS ABOUT THE LEVEL AND QUALITY OF SERVICE OFFERED BY TRANSPORTATION NETWORK COMPANIES, INCLUDING SERVICE REFUSALS, AND SHALL CREATE SERVICE STANDARDS WITH INPUT FROM A TASK FORCE FOR TAXI AND TRANSPORTATION NETWORK ACCESSIBILITY INCLUDING REGULATIONS FOR SUSPENDING THE OPERATION OF TRANSPORTATION NETWORK COMPANIES AND DRIVERS AFFILIATED WITH TRANSPORTATION NETWORK COMPANIES.

S 3. This act shall be applicable to all counties in the state of New York, excepting Bronx, Kings, New York, Queens and Richmond counties. For the purposes of this section, a geographic catchment area refers to any of the state of New York's fourteen municipal statistical areas, excluding the city of New York, and its fourteen micropolitan statistical areas, as defined by the United States census bureau.

S 4. Within two months of the enactment of this act, the department of transportation, in conjunction with the department of health, shall establish the task force for taxi and transportation network accessibility.

S 5. This act shall take effect immediately.