STATE OF NEW YORK

8493

2017-2018 Regular Sessions

IN ASSEMBLY

June 16, 2017

Introduced by M. of A. LENTOL, WALLACE, RAMOS, SKARTADOS, BARRETT, SKOUFIS, STIRPE, HUNTER, JONES, JENNE, SANTABARBARA, PICHARDO, JEAN-PIERRE, WOERNER, HARRIS, PELLEGRINO -- read once and referred to the Committee on Codes

AN ACT to amend the vehicle and traffic law and the correction law, in relation to criminal history of transportation network company drivers; and to amend the criminal procedure law, in relation to juvenile justice

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (b) of subdivision 1 of section 1696 of the vehicle and traffic law, as added by section 2 of part AAA of chapter 59 of the laws of 2017, is amended to read as follows:

(b) The TNC shall not permit an applicant where such applicant:

(i) fails to meet all qualifications pursuant to section sixteen hundred ninety-nine of this article;

(ii) is a match in the United States Department of Justice National Sex Offender Public Website;

(iii) **is listed on the sex offender registry pursuant to article six-C of the correction law;**

(iv) does not possess a valid New York driver's license;

[~~(iv)~~] **(v)** does not possess proof of registration for the motor vehicles used to provide TNC prearranged trips;

[~~(v)~~] **(vi)** does not possess proof of automobile liability insurance for the motor vehicles used to provide TNC prearranged trips as a TNC vehicle; or

[~~(vi)~~] **(vii)** is not at least nineteen years of age.

§ 2. Paragraph (b) of subdivision 2 of section 1699 of the vehicle and traffic law, as added by section 2 of part AAA of chapter 59 of the laws of 2017, is amended to read as follows:

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

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(b) An applicant shall be disqualified to receive a TNC driver permit where he or she:

(i) stands convicted in the last three years of: unlawful fleeing a police officer in a motor vehicle in violation of sections 270.35, 270.30 or 270.25 of the penal law, reckless driving in violation of section twelve hundred twelve of this chapter, operating while license or privilege is suspended or revoked in violation of section five hundred eleven of this chapter, excluding subdivision seven of such section, a misdemeanor offense of operating a motor vehicle while under the influence of alcohol or drugs in violation of section eleven hundred ninety-two of this chapter, or leaving the scene of an accident in violation of subdivision two of section six hundred of this chapter. In calculating the three year period under this subparagraph, any period of time during which the person was incarcerated after the commission of such offense shall be excluded and such three year period shall be extended by a period or periods equal to the time spent incarcerated; [~~or~~]

(ii) stands convicted in the last seven years of: [~~a sex offense defined in subdivision two of section one hundred sixty-eight-a of the correction law,~~] a felony offense defined in article one hundred twenty-five of the penal law, a violent felony offense defined in section 70.02 of the penal law, a class A felony offense defined in the penal law, a felony offense defined in section eleven hundred ninety-two of this chapter, [~~an offense for which registration as a sex offender is required pursuant to article six-C of the correction law,~~] or any conviction of an offense in any other jurisdiction that has all the essential elements of an offense listed in this subparagraph. In calculating the seven year period under this subparagraph, any period of time during which the person was incarcerated after the commission of such offense shall be excluded and such seven year period shall be extended by a period or periods equal to the time spent incarcerated**; or**

(iii) is required to register as a sex offender pursuant to article six-C of the correction law.

§ 3. Section 168-p of the correction law is amended by adding a new subdivision 2-b to read as follows:

2-b. The division shall maintain a program allowing a transportation network company (TNC), as defined in section one thousand six hundred ninety-one of the vehicle and traffic law, to electronically submit multiple names, and other necessary identifying information as required by the division and in accordance with subdivision one of this section, of applicants applying to be TNC drivers for the purpose of determining whether such applicants are listed on the sex offender registry pursuant to this article. The division shall respond to such inquiry electronically, within four business days, and notify such TNC of any such applicant who is listed on the registry pursuant to this article. A TNC shall pre-register with the division before the electronic submission of names and shall agree in writing that information obtained by a TNC pursuant to this subdivision be used only for the purposes of determining eligibility of an applicant for a TNC permit, pursuant to sections one thousand six hundred ninety-six and one thousand six hundred ninety-nine of the vehicle and traffic law, by designated employees of such TNC and that such information shall not be distributed or disclosed except as specifically authorized by law.

§ 4. Paragraph (a) of subdivision 2 of section 160.59 of the criminal procedure law, as added by section 48 of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

(a) A defendant who has been convicted of up to two eligible offenses but not more than one felony offense may apply to the court in which he or she was convicted of the most serious offense to have such conviction **or convictions** sealed. If all offenses are offenses with the same classification, the application shall be made to the court in which the defendant was last convicted.

§ 5. Subdivision 11 of section 160.59 of the criminal procedure law, as added by section 48 of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

11. No defendant shall be required or permitted to waive eligibility for sealing pursuant to this section as part of a plea of guilty, sentence or any agreement related to a conviction for an eligible offense and any such waiver shall be deemed void and wholly [~~enforceable~~] **unenforceable**.

§ 6. This act shall take effect immediately; provided, however that sections one and two of this act shall take effect on the same date and in the same manner as section 2 of part AAA of chapter 59 of the laws of 2017, takes effect; provided further that sections four and five of this act shall take effect on the same date and in the same manner as section 48 of part WWW of chapter 59 of the laws of 2017, takes effect.