

STATE OF NEW YORK

9435

IN SENATE

May 27, 2022

Introduced by Sens. KENNEDY, MAYER -- read twice and ordered printed,
and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to the deactivation of transportation network company drivers and to additional safety requirements for vehicles engaged in the transportation of passengers; and to amend the penal law, in relation to the impersonation of a transportation network company driver; and providing for the repeal of certain provisions upon the expiration thereof

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

1 Section 1. Section 1699 of the vehicle and traffic law is amended by
2 adding a new subdivision 6 to read as follows:

3 6. (a) Using a lawful method approved by the department and estab-
4 lished in regulations adopted by the department, transportation network
5 companies shall contract with a single database provider to maintain a
6 database that compiles the names of any TNC drivers whose accounts have
7 been deactivated from a digital network due to a covered incident. The
8 database provider shall be selected by the agreement of at least two of
9 the largest transportation network companies whose digital networks
10 enable the majority of trips in this state in accordance with such regu-
11 lations.

12 (b) Following an investigation of a covered incident, if a TNC deter-
13 mines that the covered incident likely occurred, the TNC shall deacti-
14 vate the TNC driver's account.

15 (c) Within five business days of deactivating a driver's account due
16 to a covered incident, a TNC shall report the deactivation to the data-
17 base provider as well as:

18 (i) the name of the TNC driver;

19 (ii) the date of birth of the TNC driver;

20 (iii) the issuing state and driver's license number of the TNC driver;

21 (iv) the type of safety incident; and

22 (v) the date of deactivation.

23 (d) In addition to the background check requirements imposed by this
24 section, a TNC shall check the database prior to authorizing a person to

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

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1 drive on the company's digital network and on an ongoing basis thereaft-
2 er. A TNC shall deactivate a TNC driver's account after it determines
3 that any TNC has reported a deactivation as a result of a covered inci-
4 dent to the database or after being notified by the database provider.

5 (e) A TNC that reports TNC driver information pursuant to this section
6 shall not be subject to liability under any civil or common law claim
7 based on:

8 (i) the furnishing of any information under paragraph (c) of this
9 subdivision; or

10 (ii) any decision to terminate or initiate a contract with a TNC driv-
11 er based on information received under paragraph (d) of this subdivi-
12 sion.

13 (f) For the purposes of this section, the following terms shall have
14 the following meanings:

15 (i) "Attempted non-consensual sexual penetration" means attempting to
16 penetrate the vagina or anus of another, without express consent, with
17 any body part or object. Any attempted removal of another person's
18 clothing to attempt to access a sexual body part will be classified as
19 attempted non-consensual sexual penetration. Attempted non-consensual
20 sexual penetration also includes attempted penetration of the user's
21 mouth with a sexual organ or sexual body part; however, it excludes
22 kissing with tongue or attempts to kiss with tongue.

23 (ii) "Covered incident" means details and specific allegations of
24 sexual assault that occurred in connection with the TNC's digital
25 network and was investigated by a comprehensive review, including but
26 not limited to the following, when available:

27 (A) communication with drivers and riders;

28 (B) third-party statements;

29 (C) relevant trip data;

30 (D) timing details; and

31 (E) police reports.

32 (iii) "Database" shall mean the database maintained pursuant to para-
33 graph (a) of this subdivision.

34 (iv) "Database provider" means a non-governmental third-party that has
35 experience in identity matching, resolving consumer reporting disputes,
36 and maintaining other industry shared databases.

37 (v) "Deactivate" means to permanently block or revoke a TNC driver's
38 account and access to the TNC's digital network.

39 (vi) "In connection with the TNC's digital network" means an incident
40 that occurred during a trip.

41 (vii) "Non-consensual kissing of a non-sexual body part" means the
42 kissing, licking, or biting or forcing a kiss, lick, or bite on any
43 non-sexual body part of another, without consent.

44 (viii) "Non-consensual kissing of a sexual body part" means the kiss-
45 ing or forcing a kiss on either the breast or buttocks of another with-
46 out consent and include kissing on the lips or kissing while using
47 tongue.

48 (ix) "Non-consensual sexual penetration" means without explicit
49 consent from a user, someone penetrated, no matter how slight, the vagi-
50 na or anus of a user with any body part or object. This includes pene-
51 tration of the user's mouth with a sexual organ or sexual body part.
52 This excludes kissing with tongue.

53 (x) "Non-consensual touching of a sexual body part" means without
54 explicit consent, the touching or forcing a touch on any sexual body
55 part of the other.

56 (xi) "Sexual assault" means:

- 1 (A) non-consensual kissing of a non-sexual body part;
2 (B) non-consensual kissing of a sexual body part;
3 (C) non-consensual touching of a sexual body part;
4 (D) attempted non-consensual sexual penetration; and
5 (E) non-consensual sexual penetration.

6 (xii) "Sexual body parts" means the mouth, female breasts, buttocks,
7 or genitalia. The phrase "between the legs" is considered to reference a
8 sexual body part. All other body parts are characterized as non-sexual.

9 (g) Nothing in this subdivision shall be construed to create a private
10 right of action against a TNC.

11 (h) The department shall have sole authority to issue any rules or
12 regulations necessary to review a transportation network company's
13 implementation of and compliance with this section, including but not
14 limited to a timeline for the review of covered incidents and process
15 for the independent review of covered incidents.

16 § 2. The vehicle and traffic law is amended by adding a new section
17 1229-e to read as follows:

18 § 1229-e. Additional safety requirements for vehicles engaged in the
19 transportation of passengers. 1. Any entity that provides a digital
20 network or application accessible by a handheld device to facilitate
21 prearranged transportation services provided in TNC vehicles shall
22 provide a system of interactive electronic match verification for the
23 passenger. Such system shall allow a passenger to confirm the prear-
24 ranged match upon the arrival of such a vehicle or prior to entering the
25 vehicle.

26 2. Subdivision one of this section shall not apply to any trip via a
27 transportation network company vehicle, for-hire vehicle, or other
28 commercial vehicle engaged in the for-hire transportation of passengers
29 in which:

30 (i) a third party, including any third party business, non-profit, or
31 government entity, facilitates the trip for a passenger; or

32 (ii) compliance with this section is impracticable due to circum-
33 stances beyond the control of a transportation network company or for-
34 hire vehicle or service, including, but not limited to instances where a
35 passenger's personal mobile device has failed to operate or there is
36 degraded, reduced, or otherwise insufficient cellular connectivity in
37 order for the system to properly operate.

38 § 3. The penal law is amended by adding two new sections 190.28 and
39 190.29 to read as follows:

40 § 190.28 Criminal impersonation of a transportation network company
41 driver in the second degree.

42 1. A person is guilty of criminal impersonation of a transportation
43 network company driver when he or she:

44 (a) Impersonates a transportation network company driver and does an
45 act in such assumed character with intent to obtain a benefit or to
46 injure or defraud another; or

47 (b) Pretends to be a transportation network company driver and falsely
48 expresses by his or her words or actions that he or she is acting with
49 approval or authority of a transportation network company or that the
50 person is responding to a passenger ride request for a transportation
51 network company, including without limitation through use of a false
52 statement or a false display of distinctive signage or emblems known as
53 a trade dress, trademark, branding or logo of the transportation network
54 company.

1 2. As used in this section, "transportation network company" shall
2 have the same meaning as such term is defined in article forty-four-B of
3 the vehicle and traffic law.

4 Criminal impersonation of a transportation network company driver in
5 the second degree is a class A misdemeanor.

6 § 190.29 Criminal impersonation of a transportation network company
7 driver in the first degree.

8 1. A person is guilty of criminal impersonation of a transportation
9 network company driver in the first degree when he or she commits the
10 crime of criminal impersonation of a transportation network company
11 driver in the second degree during commission of a separate felony
12 offense.

13 2. As used in this section, "transportation network company" shall
14 have the same meaning as such term is defined in article forty-four-B of
15 the vehicle and traffic law.

16 Criminal impersonation of a transportation network company driver in
17 the first degree is a class E felony.

18 § 4. Severability. If any clause, sentence, subdivision, paragraph,
19 section or part of this act be adjudged by any court of competent juris-
20 diction to be invalid, or if any federal agency determines in writing
21 that this act would render New York state ineligible for the receipt of
22 federal funds, such judgment or written determination shall not affect,
23 impair or invalidate the remainder thereof, but shall be confined in its
24 operation to the clause, sentence, subdivision, paragraph, section or
25 part thereof directly involved in the controversy in which such judgment
26 or written determination shall have been rendered.

27 § 5. This act shall take effect immediately; provided, however, that
28 sections one and two of this act shall take effect one year after it
29 shall have become a law; provided, further, that this act shall be
30 deemed repealed if any federal agency determines in writing that this
31 act would render New York state ineligible for the receipt of federal
32 funds or any court of competent jurisdiction finally determines that
33 this act would render New York state out of compliance with federal law
34 or regulation; provided, further, that the provisions of section two of
35 this act shall expire and be deemed repealed upon the enactment into law
36 by the federal government of legislation on interactive electronic match
37 verification that meets or exceeds the requirements of such section; and
38 provided that the commissioner of transportation shall notify the legis-
39 lative bill drafting commission upon the occurrence of the provisions of
40 this act or upon the occurrence of the enactment of legislation by the
41 federal government provided for in section two of this act in order that
42 the commission may maintain an accurate and timely effective data base
43 of the official text of the laws of the state of New York in furtherance
44 of effectuating the provisions of section 44 of the legislative law and
45 section 70-b of the public officers law. Effective immediately, the
46 addition, amendment and/or repeal of any rule or regulation necessary
47 for the implementation of this act on its effective date are authorized
48 to be made and completed on or before such effective date.