

STATE OF NEW YORK

6488

2023-2024 Regular Sessions

IN SENATE

April 24, 2023

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

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

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1 (v) the date of deactivation.

2 (d) In addition to the background check requirements imposed by this
3 section, a TNC shall check the database prior to authorizing a person to
4 drive on the company's digital network and on an ongoing basis thereaft-
5 er. A TNC shall deactivate a TNC driver's account after it determines
6 that any TNC has reported a deactivation as a result of a covered inci-
7 dent to the database or after being notified by the database provider.

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

11 (i) the furnishing of any information under paragraph (c) of this
12 subdivision; or

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

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

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

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

30 (A) communication with drivers and riders;

31 (B) third-party statements;

32 (C) relevant trip data;

33 (D) timing details; and

34 (E) police reports.

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

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

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

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

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

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

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

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

4 (xi) "Sexual assault" means:

5 (A) non-consensual kissing of a non-sexual body part;

6 (B) non-consensual kissing of a sexual body part;

7 (C) non-consensual touching of a sexual body part;

8 (D) attempted non-consensual sexual penetration; and

9 (E) non-consensual sexual penetration.

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

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

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

20 § 2. The vehicle and traffic law is amended by adding a new section
21 1229-e to read as follows:

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

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

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

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

42 § 3. The penal law is amended by adding two new sections 190.28 and
43 190.29 to read as follows:

44 § 190.28 Criminal impersonation of a transportation network company
45 driver in the second degree.

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

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

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

1 a trade dress, trademark, branding or logo of the transportation network
2 company.

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

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

8 § 190.29 Criminal impersonation of a transportation network company
9 driver in the first degree.

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

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

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

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

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