§ 1699. Criminal history background check of transportation network company drivers. 1. A TNC shall conduct, or have a third party conduct, a criminal history background check using a lawful method approved by the department pursuant to paragraph (a) of subdivision two of this section for persons applying to drive for such company.

2. (a) The method used to conduct a criminal history background check pursuant to subdivision one of this section shall be established in regulations adopted by the department within thirty days of the effective date of this subdivision. To ensure safety of the passengers and the public such regulations shall establish the method used to conduct such background checks and any processes and operations necessary to complete such checks. The review of criminal history information and determinations about whether or not an applicant is issued a TNC driver permit shall be controlled by paragraphs (b), (c) and (d) of this subdivision.

(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;

(ii) stands convicted in the last seven years of: 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, 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.

(c) A criminal history record that contains criminal conviction information that does not disqualify an applicant pursuant to subparagraphs (i) or (ii) of paragraph (b) of this subdivision, shall be reviewed and considered according to the provisions of article twenty-three-A of the correction law and subdivisions fifteen and sixteen of section two hundred ninety-six of the executive law in determining whether or not the applicant should be issued a TNC driver's permit.

(d) Upon receipt of criminal conviction information pursuant to this section for any applicant, such applicant shall promptly be provided with a copy of such information as well as a copy of article twenty-three-A of the correction law. Such applicant shall also be informed of his or her right to seek correction of any incorrect information contained in such criminal history information pursuant to the regulations and procedures established by the division of criminal justice services.

(e) The department shall promulgate regulations for the purpose of implementing the provisions of this subdivision.

3. A TNC shall update the criminal history background check yearly during the period in which the person is authorized to drive for the company, however, the commissioner may require, pursuant to regulation, more frequent criminal history background checks.

4. To ensure safety of the passengers and the public a TNC shall be responsible for all fees associated with the criminal history check pursuant to subdivision one of this section.

5. Any TNC found to have violated any requirements established

pursuant to this section, shall on the first instance, be subject to a civil penalty of not more than ten thousand dollars. For any subsequent instance within the period of two years from any initial violation, such TNC shall be subject to a civil penalty of not more than fifty thousand dollars, or the suspension or revocation of its TNC license or both.