

LC001799

IN GENERAL ASSEMBLY

RELATING TO PUBLIC UTILITIES AND CARRIERS -- DRIVER NATIONAL CRIMINAL
BACKGROUND CHECK

(Division of Public Utilities & Carriers)

18 (6) "Driver" means any person seeking initial authority to provide for-hire intrastate

1 passenger transportation services under chapters 14, 14.1, or 14.2 of title 39.

2 (7) "Initial authority" means first-time and renewal applicants for a special operator's
3 license as defined in §§ 39-14-20 and 39-14.1-8; first-time TNC operators; and for active TNC
4 operators, as defined in § 39-14.2-1, subject to subsequent periodic background checks as required
5 in § 39-14.2-7, no later than December 31, 2019.

6 (8) "TNC" means transportation network company as defined in § 39-14.2-1.

7 **39-14.4-2. Background check required.**

8 (a) No driver shall transport passengers for hire in a taxicab, limited public motor vehicle,
9 public motor vehicle or TNC vehicle within the state without first having undergone a national and
10 state criminal background check in accordance with this chapter. The driver shall apply to the
11 bureau of criminal identification (BCI), department of attorney general, state police, or local police
12 department where they reside, for a national and state criminal records check. Fingerprinting shall
13 be required. The driver shall be responsible for the cost of conducting the national criminal
14 background check.

15 (b) In instances which no disqualifying information has been found, the bureau of criminal
16 identification, state police, or local police department shall inform the driver and the division, in
17 writing, of this fact.

18 (c) Upon the discovery of any disqualifying information as defined in subsection (d) of this
19 section, the bureau of criminal identification, state police or local police department shall inform
20 the driver, in writing, of the nature of the disqualifying information; and, without disclosing the
21 nature of the disqualifying information, will notify the division, in writing, that disqualifying
22 information has been discovered.

23 (d) For the purposes of this chapter, "disqualifying information" shall mean: information
24 produced by a national criminal records check pertaining to conviction for the following crimes
25 will result in a letter to the driver and the division: murder; voluntary manslaughter; involuntary
26 manslaughter; first degree sexual assault; second degree sexual assault; third degree sexual assault;
27 first degree child molestation sexual assault; second degree child molestation sexual assault; any
28 offense under chapter 67 of title 11; assault on persons sixty (60) years of age or older; assault with
29 intent to commit specified felonies (murder, robbery, rape, burglary, or the abominable and
30 detestable crimes against nature); felony assault; patient abuse; neglect or mistreatment of patients;
31 burglary; first degree arson; robbery; unlawful possession of a firearm; felony drug offenses; felony
32 obtaining money under false pretenses; abuse, neglect and/or exploitation of adults with severe
33 impairments; exploitation of elders; felony larceny; duty to stop in accidents, resulting in injury;
34 duty to stop in accidents, resulting in serious bodily injury; duty to stop in accidents, resulting in

death; driving so as to endanger, resulting in death; driving so as to endanger, resulting in personal injury; driving so as to endanger, resulting in physical injury; driving under influence of liquor or drugs; refusal to submit to chemical test; driving under the influence of liquor or drugs, resulting in death; driving under the influence of liquor or drugs, resulting in serious bodily injury.

39-14.4-3. Background check clearance certificate.

(a) Except as provided in subsection (b) of this section, no person shall transport passengers for hire in a taxicab, limited public motor vehicle, public motor vehicle or TNC vehicle within the state without first obtaining a background check clearance certificate, as defined in in § 39-14.4-1, issued by the division. The clearance certificate shall be issued to the driver; provided, however, the division shall transmit the clearance certificate to any TNC permit holder identified by the driver.

(b) The following criminal records may not be used in connection with any application for a background check clearance certificate issued by the division:

(1) Juvenile adjudications;

(2) Records of arrest not followed by a valid conviction;

(3) Convictions that have been, pursuant to law, annulled or expunged;

(4) Misdemeanor convictions for which no jail sentence can be imposed.

(c) A person who has been convicted of a crime or crimes referenced in § 39-14.4-2(d) shall not be disqualified from obtaining a background check clearance certificate if the person can show competent evidence of sufficient rehabilitation and present fitness to perform the duties for which the background clearance certificate is sought. The division shall consider the time elapsed since the conviction when determining sufficient rehabilitation, as well as any evidence presented by the applicant regarding:

(1) Completion of a period of at least two (2) years after release from imprisonment, or at least two (2) years after the sentencing date for a probation sentence not accompanied by incarceration, without subsequent conviction or pending criminal charge;

(2) The nature, seriousness, and relevance of the crime or crimes for which convicted;

(3) All circumstances relative to the crime or crimes, including mitigating circumstances surrounding the commission of the crime or crimes;

(4) The age of the person at the time the crime or crimes were committed;

(5) Claims that the criminal record information is in error or inadmissible under subsection (b) of this section; and

(6) All other competent evidence of rehabilitation and present fitness presented, including, but not limited to, letters of reference by persons who have been in contact with the applicant since

1 the applicant's release from any state or federal correctional institution.

2 (d) Any driver denied the issuance of a background clearance certificate may appeal the
3 decision in accordance with chapter 35 of title 42 ("administrative procedures").

4 (e) The clearance certificate shall be effective for a period of five (5) years from the date
5 of issuance by the division.

6 **39-14.4-4. Denial and appeal process.**

7 (a) If the division intends to deny a background clearance certificate based solely or in part
8 on § 39-14.4-2(d), the division shall notify the individual in writing of the following prior to the
9 final decision:

10 (1) The specific conviction(s) that form the basis for the potential denial, suspension, or
11 revocation and the rationale for deeming the conviction substantially related to the relevant permit;

12 (2) A copy of the conviction history report, if any, on which the division relies;

13 (3) A statement that the applicant may provide evidence of mitigation or rehabilitation, as
14 described in § 39-14.4-3(c); and

15 (4) Instructions on how to respond to the revocation.

16 (b) After receiving the notice of potential denial, the individual shall have thirty (30)
17 business days to respond.

18 (c) If the division denies a background clearance certificate based solely or in part on § 39-
19 14.4-2(d), the division shall issue a final written decision that addresses each of the following
20 factors:

21 (1) The state's legitimate interest in equal access to employment for individuals who have
22 had past contact with the criminal justice system;

23 (2) The state's legitimate interest in protecting the property and the safety and welfare of
24 specific individuals or the general public; and

25 (3) The relationship of the crime or crimes to the ability, capacity, and fitness required to
26 perform the duties and discharge the responsibilities of the position of employment or occupation.

27 (4) The specific conviction(s) that form the basis for the denial and the rationale for
28 deeming the conviction substantially related to the relevant permit.

29 (5) The process for appealing the decision in accordance with chapter 35 of title 42
30 ("administrative procedures"); and

31 (6) The earliest date the person may reapply for an occupational license, permit, or
32 certificate, which shall not be longer than two (2) years from the date of the final decision.

33 **39-14.4-5. Destruction of fingerprint record.**

34 At the conclusion of the criminal background check required in this chapter, the department

1 of attorney general, state police, or local police department, as appropriate, shall promptly destroy
2 the fingerprint record of the driver obtained pursuant to this chapter.

3 **39-14.4-6. Expiration of certificate.**

4 The clearance certificate shall expire five (5) years from the date of issuance; provided,
5 however, that the division may invalidate a certificate and require the driver to obtain a new
6 clearance certificate if the division determines that it is in the public interest.

7 SECTION 2. Section 39-14-20 of the General Laws in Chapter 39-14 entitled "Taxicabs
8 and Limited Public Motor Vehicles" is hereby amended to read as follows:

9 **39-14-20. Licensing of operators.**

10 (a) No person shall operate a taxicab or limited public motor vehicle upon the public
11 highways until the person shall have first obtained:

12 (1) An ~~an~~ operator's license as provided for in chapter 10 of title 31;

13 (2) A background check clearance certificate in accordance with chapter 14.4 of title 39.
14 Issuance of such certificate is a separate and distinct requirement from the special license required
15 in subsection (3) of this section; and

16 ~~(b) Further, no person shall operate a taxicab or limited public motor vehicle upon the~~
17 ~~highways until the person shall have first obtained a~~

18 (3) A special license from the division of public utilities and carriers under such rules and
19 regulations as the division of public utilities and carriers shall require.

20 SECTION 3. Section 39-14.1-8 of the General Laws in Chapter 39-14.1 entitled "Public
21 Motor Vehicles" is hereby amended to read as follows:

22 **39-14.1-8. Licensing of operators.**

23 No person shall operate a public motor vehicle upon the public highways until the person
24 shall have first obtained an operator's license as provided for in chapter 10 of title 31. Further, no
25 person shall operate a public motor vehicle upon the highways until the person shall have first
26 obtained a special license from the division of public utilities and carriers under any rules and
27 regulations that the division of public utilities and carriers shall require; and, further, until the
28 person shall have obtained from the division a background check clearance certificate in accordance
29 with chapter 14.4 of title 39.

30 SECTION 4. Section 39-14.2-7 of the General Laws in Chapter 39-14.2 entitled
31 "Transportation Network Company Services" is hereby amended to read as follows:

32 **39-14.2-7. Transportation network company operators or TNC operators, TNC**
33 **drivers.**

34 (a) No individual shall provide TNC services or transport TNC riders in a personal vehicle

1 until the individual shall have first submitted to required, periodic background checks conducted
2 through the TNC in accordance with subsection (b).

3 (b) Prior to permitting an individual to accept trip requests through its digital network, a
4 TNC shall:

5 (1) Require the individual to submit an application to the TNC. The application shall
6 include the individual's name; address; age; driver's license number; photocopy or electronic copy
7 of the driver's license; motor-vehicle registration for the personal vehicle that the individual intends
8 to use to provide prearranged rides; automobile liability insurance; and other information as may
9 be required by the TNC;

10 (2) Conduct, or have a third party accredited by the National Association of Professional
11 Background Screeners conduct, a local and national criminal background check for each applicant
12 that shall include:

13 (i) A multistate/multi-jurisdictional criminal records locator or other similar commercial
14 nationwide database with validation (primary source search); and

15 (ii) The Dru Sjodin National Sex Offender Public Website; and

16 (3) Obtain and review, or have a third party obtain and review, a driving history research
17 report for such driving applicant.

18 (c) The TNC shall certify that the required background checks verify that the applicant
19 meets the following criteria:

20 (1) Has not had more than three (3) moving violations in the prior three-year (3) period, or
21 one of the following major violations in the prior three-year (3) period:

22 (i) Attempting to evade the police;

23 (ii) Reckless driving;

24 (iii) Driving on a suspended license; or

25 (iv) Revoked license.

26 (2) Has not, in the past seven (7) years, been convicted of or pleaded nolo contendere to
27 any of the following:

28 (i) Driving under the influence of drugs or alcohol;

29 (ii) Felony fraud;

30 (iii) Sexual offenses;

31 (iv) Use of a motor vehicle to commit a felony;

32 (v) Felony crimes involving property damage and/or theft; or

33 (vi) Acts of violence or felony acts of terror;

34 (3) Is not a match in the Dru Sjodin National Sex Offender Public Website;

- 1 (4) Possesses a valid driver’s license;
- 2 (5) Possesses proof of registration for the motor vehicle to be used to provide prearranged
- 3 rides or TNC services;
- 4 (6) Possesses proof of automobile liability insurance, that satisfies the financial-
- 5 responsibility requirement for a motor vehicle under § 31-47-2(13)(i)(A), for the motor vehicle(s)
- 6 to be used to provide prearranged rides or TNC services; ~~and~~
- 7 (7) Is at least nineteen (19) years of age; and
- 8 (8) Has obtained from the division a background check clearance certificate as required by
- 9 § 39-14.4-3.
- 10 (d) TNC operators may be affiliated with or may “partner” with more than one properly
- 11 permitted transportation network company to provide TNC services.
- 12 SECTION 5. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PUBLIC UTILITIES AND CARRIERS -- DRIVER NATIONAL CRIMINAL
BACKGROUND CHECK

- 1 This act would provide a criminal background check procedure for for-hire intrastate
- 2 passenger transportation services.
- 3 This act would take effect upon passage.

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