

# NJ Passes Ride-Share Uber and Lyft Driver Legislation

by Leonard S. dePalma, Esq.

On February 10, 2017 Gov. Chris Christie signed into law the "Transportation Network Company Safety and Regulatory Act" (C.39:5H-1 et seq. also known as P.L. 2017, c.26, Sections 1 through 27) which licenses and regulates the ride-sharing industry, such as Uber and Lyft. This enactment ends a three-year effort negotiation during which Uber executives threatened to cease operations within New Jersey.

This legislation mandates criminal background checks for drivers, a zero-tolerance policy regarding use of drugs and alcohol and other requirements. The law also requires ride share companies to pay an annual permit fee of \$25,000.

## No Tolerance Drug and Alcohol Policy

Under the bill's zero-tolerance policy, the transportation network company shall implement a zero tolerance policy on the use of controlled dangerous substances and alcohol that may impair a transportation network company driver while the driver is providing a prearranged ride or while the driver is logged on to the transportation network company's digital network as a driver but is not providing a prearranged ride. If the a company investigation confirms the rider's complaint, the business must revoke the driver's access to the company's digital network within the following 72 hours.

"This legislation makes it easier for this innovative business model to conduct business in our state, creating earning opportunities for our residents and providing transportation services that are already in high demand," Christie said in a statement reported by Law360.com. "This law ensures app-based ride services abide by safety and service standards, protecting riders, motorists and



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# the Advocate

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our roadways through common sense drug, alcohol, inspection and background screenings, and requiring adequate insurance policies."

The new legislation requires that ride-share drivers must be at least 21 years old and that they be banned from employment if they had been convicted of homicide, sexual assault, driving under the influence of drugs or alcohol, reckless driving and possession or sale of a controlled dangerous substance. However, it does not require that drivers be fingerprinted for a background check, or even that they be interviewed in-person for the job.

As reported by NJ.com, an Uber spokesman, Craig Ewer, stressed that "our third-party background check process requires prospective drivers to submit not just their name, but also their Social Security number, driver's license, and insurance information, all of which are cross-checked against each other to ensure we have the right person."

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"The key word for transportation in the 21st is 'choice.'"

- Anthony Foxx

"If we drive down the cost of transportation in space, we can do great things."

- Elon Musk

"We want transportation as reliable as running water."

"Uber exists because of mobile telephones."

- Travis Kalanick

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However, Richard Frankel, who last year retired as the special agent in charge of the FBI's Newark bureau, said fingerprinting was a "more exact" method of checking if someone has a criminal past, according to a report by NJ.com. "There's no way to misspell a fingerprint," Frankel said. "There's a much more significant failure with name checks."

Noteworthy is the fact that Uber and Lyft have accepted fingerprinting in New York City, where the companies operate as hired car ventures because ride-hailing services are illegal. As a result, ride-sharing companies in New York City are regulated under the same laws as taxis and limousines by the city's taxi and limousine commission.

## Fare Calculation Methods

The new legislation includes rules requiring the businesses to provide riders with the fare or the method by which they calculate fares. Specifically, C.39:5H-7 titled "Collection of fare" states in part:

A transportation network company may, on behalf of a transportation network company driver, collect a fare for a prearranged ride provided to a transportation network company rider; provided that, if a fare is collected from a rider, the transportation network company shall disclose to the rider on its website or digital network the fare or method by which the transportation network company calculates fares. The transportation network company shall provide riders with the applicable rates being charged by a transportation network company driver and the option to receive an estimated fare prior to the rider entering the driver's personal vehicle.

The new legislation also includes record-keeping guidelines, for example C.39:5H-4 titled "Issuance, revocation of permit; fees: states in part:

a. The commission shall issue a transportation network company a permit to allow for the lawful operation of a transportation network company in this State up on receipt of the following information: (1) proof of insurance ... (2) proof that the transportation network company is registered as a business in this State; (3) a written description of the transportation network company's zero tolerance policy... (4) a written description of the transportation network company's policy of non-discrimination ... and (5) a written description of how the transportation network company will comply with the criminal background check requirements.

Regarding insurance provisions C.39:5H-10 titled "Automobile insurance required" states in pertinent part:

Whenever a transportation network company driver is logged on to the transportation network company's digital network and is available to receive a prearranged ride request, but is not providing a prearranged ride, the transportation network company driver, transportation network company, or any combination of the two shall maintain the following insurance coverage: (1) primary automobile liability insurance in the amount of at least \$50,000 for death or bodily injury per person, \$100,000 for death or bodily injury per incident, and \$25,000 for property damage... (2) primary personal injury protection benefits... and (3) uninsured and underinsured motorist... Whenever a transportation network company driver is providing a prearranged ride, the transportation network company driver, transportation network company, or any combination of the two shall maintain the following insurance coverage: (1) primary automobile liability insurance in the amount of at least \$1,500,000 for death, bodily injury, and property damage; (2) primary automobile insurance for medical payments benefits in an amount of at least \$10,000 per person per incident, which shall only apply to and provide coverage for the benefit of the transportation network company driver; and (3) uninsured and underinsured motorist coverage in an amount of at least \$1,500,000.



This means that passengers injured in an accident while being transported by a ride-sharing company will now have medical coverage -- through either the driver, the company, or both -- that covers \$1.5 million in medical bills, even if the driver's policy has lapsed. This is significant because many auto insurance companies have policies that do not cover ride-hailing accidents.

"Ride-hailing companies provide a valuable service for individuals who may not otherwise have access to transportation, and clearly their business model is effective," one of the bill's sponsors, State Assemblyman Troy Singleton, D-Burlington, said in a statement as reported by Law360.com. "This law is aimed at striking a balance that makes public safety the first priority while also allowing transportation network companies to continue innovating."

A sponsor of the state Senate version of the legislation, Sen. Paul Sarlo, D-Bergen, said the bill will "address concerns about safety regulations and confusion about who is responsible for setting and enforcing standards to protect consumers and safeguard customers in their use of ride-hailing companies such as Uber and Lyft that have experienced rapid growth, as reported by Law360.com.