

Title 12 of the NYCRR is hereby amended to add a new Part 319, as follows:

Part 319. Transportation Network Companies

319.1 Definitions

- (a) The terms “transportation network company” or “TNC”, “TNC driver”, “TNC vehicle”, “TNC passenger”, and “TNC prearranged trip” shall have the same meaning as set forth in section 1691 of article forty-four-B of the vehicle and traffic law.
- (b) “Board” means the New York State Workers’ Compensation Board.
- (c) “Permitted” shall mean that the TNC driver is the holder of a valid TNC driver’s permit, which has been issued pursuant to article 44-B of the vehicle and traffic law.

319.2 Exclusivity of TNC Services

For the purposes of the administration of article 6-F of the executive law, a TNC driver shall mean a TNC driver who is engaged in a TNC prearranged trip, or who otherwise meets the definition of a TNC driver as set forth in article 44-B and Part 319.3(a)(2) of this title, and who at the time of injury was not also acting as:

- (a) a black car operator, as defined in paragraph 1 of section 160-cc of the executive law, who (1) may operate anywhere in the state of New York and (2) accepts passengers through means other than a TNC digital network;
- (b) an independent livery operator, who satisfies the eligibility criteria set forth in paragraph c of section 309.2 of title 12 of the New York codes, rules, and regulations, and (1) accepts passengers from a central dispatch facility other than one that is a member of the New York Black Car Operators’ Injury Compensation Fund, Inc., as defined article 6-F of the executive law, and (2) operates in the five boroughs of the city of New York or Westchester or Nassau counties;
- (c) a medallion cab or a borough taxi operator, regulated pursuant to section 148-a of the vehicle and traffic law and section 19-502 of the administrative code of the city of New York; or
- (d) a livery driver, who (1) is not a member of the Independent Livery Drivers Benefit Fund, the New York Black Car Operators’ Injury Compensation Fund, Inc., or a medallion cab or borough taxi operator, and (2) accepts passengers through means other than a TNC digital network
- (e) a for-hire vehicle operator, as defined in section 19-502 of the administrative code of the city of New York and regulated by the New York city taxi and limousine commission, who accepts passengers within the city of New York (New York, Kings, Queens, Bronx and Richmond counties).

319.3 Scope of Coverage

(a) For purposes of the administration of article 6-F of the Executive Law, a “Black car operator” shall include:

- (1) any TNC driver that is engaged in a TNC prearranged trip and

(2) any TNC driver that is logged onto a TNC digital network and is not engaged in a TNC prearranged trip, provided:

(i) the TNC driver was permitted by the TNC on or before 11:59 PM of June 29, 2018, in accordance with criteria set forth in section 1696 of article forty-four-B of the vehicle and traffic law; and

(ii) at the time of the event giving rise to a claim for benefits from the New York Black Car Operators' Injury Compensation Fund, the TNC driver was engaged in an activity reasonably related to driving as a TNC driver taking into consideration the time, place and manner of such activity.

(b) For the purposes of this section, the time and date that a TNC driver is considered permitted shall be the earlier of:

- (1) the date maintained in the TNC's records,
- (2) the postmark date when the permit was mailed,
- (3) the date the permit was electronically transmitted, or
- (4) the date stamp provided to a TNC driver at the time of permitting.

(c) To determine whether a Black car operator, as defined pursuant to paragraph (b) of subdivision one of section 160-cc of the executive law, is engaged in an activity reasonably related to driving as a TNC driver, consideration by the board may include, but not be limited to, the following:

- (1) Whether the TNC driver is in or near the TNC vehicle at the time of injury;
- (2) Whether the injury occurred while actively seeking a TNC prearranged trip or immediately after a TNC prearranged trip; and
- (3) The distance between the site of the accident and the TNC passenger drop-off location.