

Attachment 1 to Council Budget Action TNC DRC 104-A-1 (CB 119686)

Sponsor: CM González

Amend CB 119686, version D2, to require Director rules on privacy and safety issues and to include representatives of local sexual assault organizations in the rulemaking process.

On page 9, after line 20

SMC 14.32.050 Protection from unwarranted deactivation

D. Deactivation Appeals Panel

1. The City shall establish a “Deactivation Appeals Panel” (“Panel”) for purposes of hearing TNC driver challenges to deactivations. The Agency shall contract with one or more persons or entities (“neutral arbitrator”) to conduct arbitration proceedings to hear deactivation challenges. The neutral arbitrator shall be one member of the Panel. The remaining Panel members shall consist of an equal number of partisan panel members, representing the interests of the TNC driver and the TNC, respectively.

2. The utilization of the Panel arbitration proceeding created by this Chapter 14.32 is voluntary upon agreement by both parties, except as provided for under subsection 14.32.050.B, and shall be of no cost to the TNC driver. If utilized, the Panel shall be the sole arbitration proceeding for challenging the deactivation.

3. The cost of arbitration, including any fee charged by an arbitrator, will be shared equally by the TNC and the Driver Resolution Center. If the TNC driver is not represented by a representative of the Driver Resolution Center, the TNC shall be solely responsible for the cost of arbitration.

4. The arbitration shall be conducted no later than 30 days after the notice of intent to arbitrate has been provided to the TNC under subsection 14.32.050.C.4, within a time frame mutually agreed by the parties, or as ordered by the Panel.

5. Subject to rules issued by the Director, the Panel may conduct pre-hearing procedures, as well as an evidentiary hearing at which parties shall be entitled to present witnesses and written evidence relevant to the dispute, and to cross-examine witnesses.

6. The Panel's decision in any case shall be by majority vote, with each panel member holding one vote.

7. The Panel shall issue a written decision and, if appropriate, award relief. The Panel shall endeavor to issue the written decision within 48 hours of the evidentiary hearing.

8. Upon a decision concluding an unwarranted deactivation occurred, the Panel may order such relief as may be appropriate to remedy the violation including, without limitation, all remedies provided in Section 14.32.170. Should the Panel order that the TNC driver be reinstated, such order shall be limited to reinstatement to provide TNC services from a passenger drop-off location or a passenger pick-up location in the City.

9. The decision of the Panel shall be final and binding upon the parties.

10. Nothing in this subsection 14.32.050.D shall be construed as restricting a TNC driver's right to pursue any remedy at law or equity for an unwarranted deactivation.

11. The Director shall issue rules to effectuate the terms of this Section 14.32.050 including, but not limited to, rules regarding the definition of unwarranted deactivation, driver eligibility to challenge deactivations, the selection of and criteria for the neutral arbitrator and partisan panel members, and the number of partisan panel members. The Director shall further ~~consider methods~~ issue rules on methods to protect passenger privacy and

address potential safety concerns during ~~the Deactivation Appeal Panel proceeding~~ Panel arbitrations for deactivations that include but are not limited to allegations of egregious misconduct.

E. Subject to the provisions of this Section 14.32.050 and rules issued by the Director, a TNC may immediately deactivate a TNC driver if such action is required to comply with any applicable local, state, or federal laws or regulations or where a TNC driver has engaged in egregious misconduct. The Director's rules shall define egregious misconduct to include, at minimum, allegations of sexual assault.

F. In computing any period of time prescribed or allowed by this Section 14.32.050, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a federal or City holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday, nor a federal or City holiday.

14.32.060 Driver Resolution Center

A. The Agency may contract with a Driver Resolution Center to provide driver resolution services. Those services shall include, but not be limited to:

1. Consultation and/or direct representation for TNC drivers facing deactivation;
2. Other support for TNC drivers to ensure compliance with applicable labor standards and/or to support their ability to perform TNC services; and
3. Outreach and education to TNC drivers regarding their rights under this Chapter 14.32 and other applicable federal, state, and local laws and regulations.

B. The Director must approve in advance, by rule or otherwise, the provision of any services by a Driver Resolution Center pursuant to contract other than those identified in subsection 14.32.060.A. Any additional services provided must be consistent with this Chapter 14.32.

14.32.116 Rulemaking authority

The Director is authorized to administer this Chapter 14.32. The Director shall exercise all responsibilities under this Chapter 14.32 pursuant to rules and regulations developed under Chapter 3.02. The Director is authorized to promulgate, revise, or rescind rules and regulations deemed necessary, appropriate, or convenient to administer, and evaluate the provisions of this Chapter 14.32, providing affected entities with due process of law and in conformity with the intent and purpose of this Chapter 14.32. The Director shall develop such rules and regulations through an inclusive stakeholder engagement process that includes, at minimum, participation of representatives of local sexual assault organizations and a focus on survivor-centered policies and procedures.

Effect: This amendment would require the Director to issue rules on (1) passenger privacy and safety concerns for deactivations that include but are not limited to allegations of sexual assault, and (2) the definition of “egregious misconduct.” The amendment also would require the Director to include participation of representatives of local sexual assault organizations in the rulemaking process.