

**HOUSE . . . . . No. 1099**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Frank A. Moran***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing a transportation network driver bill of rights.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Frank A. Moran</i>	<i>17th Essex</i>	<i>1/19/2023</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>1/25/2023</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>1/27/2023</i>
<i>Pavel M. Payano</i>	<i>First Essex</i>	<i>2/2/2023</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>2/8/2023</i>
<i>Estela A. Reyes</i>	<i>4th Essex</i>	<i>2/8/2023</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>2/8/2023</i>
<i>James C. Arena-DeRosa</i>	<i>8th Middlesex</i>	<i>2/8/2023</i>
<i>Rodney M. Elliott</i>	<i>16th Middlesex</i>	<i>2/10/2023</i>
<i>Tricia Farley-Bouvier</i>	<i>2nd Berkshire</i>	<i>2/17/2023</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>2/22/2023</i>
<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>2/22/2023</i>
<i>Samantha Montaña</i>	<i>15th Suffolk</i>	<i>2/24/2023</i>
<i>Marc R. Pacheco</i>	<i>Third Bristol and Plymouth</i>	<i>3/2/2023</i>
<i>John J. Cronin</i>	<i>Worcester and Middlesex</i>	<i>3/7/2023</i>
<i>Christopher J. Worrell</i>	<i>5th Suffolk</i>	<i>3/7/2023</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>3/8/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>3/8/2023</i>

<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/13/2023</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>3/17/2023</i>
<i>Rita A. Mendes</i>	<i>11th Plymouth</i>	<i>3/17/2023</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>	<i>4/5/2023</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>	<i>5/17/2023</i>
<i>Judith A. Garcia</i>	<i>11th Suffolk</i>	<i>5/23/2023</i>
<i>Orlando Ramos</i>	<i>9th Hampden</i>	<i>7/5/2023</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>9/11/2023</i>
<i>Paul J. Donato</i>	<i>35th Middlesex</i>	<i>9/21/2023</i>
<i>Shirley B. Arriaga</i>	<i>8th Hampden</i>	<i>9/27/2023</i>
<i>Francisco E. Paulino</i>	<i>16th Essex</i>	<i>11/15/2023</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>12/6/2023</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>12/12/2023</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>	<i>12/28/2023</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>12/28/2023</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/3/2024</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>1/5/2024</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>1/12/2024</i>
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>1/16/2024</i>
<i>Michael P. Kushmerek</i>	<i>3rd Worcester</i>	<i>1/18/2024</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>4/2/2024</i>

**HOUSE . . . . . No. 1099**

By Representative Moran of Lawrence, a petition (accompanied by bill, House, No. 1099) of Frank A. Moran and others relative to establishing a transportation network driver bill of rights. Financial Services.

**The Commonwealth of Massachusetts**

In the One Hundred and Ninety-Third General Court  
(2023-2024)

An Act establishing a transportation network driver bill of rights.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Transportation Network Driver Representation and Negotiations of  
2 Recommended Standards.

3 This section shall establish Chapter 150F of the General Laws to create the opportunity  
4 for workers in the digital transportation marketplace to combine into transportation network  
5 driver organizations and to negotiate on an industry-wide basis with companies in this industry  
6 on recommendations to the commonwealth that raise standards for the terms and conditions of  
7 work in this industry:-

8 Section 1. Findings and policy.

9 (A) The commonwealth of Massachusetts recognizes that the growing rate of  
10 technological advancement has fundamentally altered the way that many people are hired and  
11 employed, and work within the commonwealth. This technological advancement has generated  
12 new “digital marketplaces” in the transportation sector, in which companies connect, through

13 electronic media, customers seeking passenger transportation services to persons willing to  
14 supply that transportation service. These persons often suffer poor pay, inadequate health  
15 coverage, and irregular or inadequate working hours. In fact, these deleterious conditions have  
16 harmed other companies and workers providing passenger transportation services by more  
17 traditional means. It is hereby declared that the best interests of the people of this  
18 commonwealth are served by stabilizing the workplace conditions and ameliorating the  
19 compensation and benefits of persons who supply their labor in the digital transportation  
20 marketplaces. This chapter shall be deemed an exercise of the police power of the  
21 commonwealth for the protection of the public welfare, prosperity, health and peace of the  
22 people of the commonwealth, and shall be liberally construed for the accomplishment of its  
23 purposes. It is further declared that the best interests of the people of this commonwealth are  
24 served by the prevention or prompt resolution of disputes between rideshare network companies  
25 and the persons who supply the labor to effectuate those services through collective bargaining,  
26 subject to approval and ongoing supervision by the commonwealth.

27 (B) For the reasons set forth in subdivision A, it is the public policy of the  
28 commonwealth to displace competition with regulation of the terms and conditions of work for  
29 transportation network drivers set forth herein; and, consistent with this policy, to exempt from  
30 federal and commonwealth antitrust laws, the formation of industry councils and negotiation  
31 between transportation network companies and transportation network drivers to negotiate with  
32 one another on an industry-wide basis, and to supervise, evaluate and if approved, implement the  
33 resulting negotiated recommendations concerning the terms and conditions of work for all  
34 transportation network drivers in an industry when those recommendations are found by the

35 Secretary of Labor to advance the public purposes stated in this section and are then made  
36 binding, regardless of the competitive consequences thereof.

37 (1) The commonwealth intends that transportation network drivers have the right to form,  
38 join, or assist labor organizations, to be represented through representatives of their own  
39 choosing, and to engage in other concerted activities for the purpose of working with an industry  
40 council to create negotiated recommendations, which shall form the basis for industry  
41 regulations;

42 (2) The commonwealth intends transportation network companies have the right to form  
43 multi-company associations to represent them while working with an industry council;

44 (3) The intent and policy of the commonwealth is for the statutory and non-statutory  
45 labor exemptions from the federal antitrust laws and analogous commonwealth laws, to apply to  
46 transportation network drivers who choose to form, join or assist labor organizations in qualified  
47 labor activity in Massachusetts.

48 (4) The commonwealth intends in authorizing and regulating transportation network  
49 companies and transportation network drivers engaging in qualified labor activity that state  
50 action immunity apply to this statute, and that such companies and drivers be immune from the  
51 federal and commonwealth antitrust laws to the fullest extent possible in their conduct pursuant  
52 to this statute;

53 (5) The commonwealth will actively supervise the qualified labor activity conducted by  
54 transportation network companies and transportation network drivers pursuant to this statute to  
55 ensure that the conduct permitted by the statute protects the rights of workers, consumers, and  
56 companies, encourages collective negotiation and labor peace, and curtails any practices that

57 may negatively impact the general welfare of workers, consumers, businesses, and the  
58 commonwealth economy and otherwise advances the purposes of this Act.

59 Section 2. Definitions.

60 “Active transportation network driver” or “active TND” means a transportation network  
61 driver so designated pursuant to the following process: Upon request by the board, each  
62 transportation network company (“TNC”) shall provide the board with information that  
63 identifies all transportation network drivers (“TND”) who completed five or more rides that  
64 originate in the commonwealth of Massachusetts on the TNC’s platform in the previous six  
65 months. Such information shall include only the name of the TND, the TND driver’s license  
66 number, and the number of rides the TND completed through the TNC’s platform in the previous  
67 six months. The board shall combine the data provided by all TNCs to determine the distribution  
68 of the number of rides completed by all TNDs for which data has been submitted, and then shall  
69 determine the median number of rides across TNDs for whom data has been submitted in the  
70 previous six months. Any TND who completed more than at least the median number of rides  
71 shall be considered an active transportation network driver in the rideshare industry.

72 “Board” means the commonwealth employment relations board created by section 9R of  
73 Chapter 23 of the General Laws.

74 “Company union” means any committee, employee representation plan, or association of  
75 workers or others which exists for the purpose, in whole or in part, of dealing with TNCs  
76 concerning grievances or terms and conditions of work for TNDs, which a TNC has initiated or  
77 created or whose initiation or creation it has suggested, participated in or in the formulation of  
78 whose governing rules or policies or the conducting of whose management, operations or

79 elections the TNC participates in or supervises or which, on or after the effective date of this act,  
80 the TNC maintains, finances, controls, dominates, or assists in maintaining or financing unless  
81 required to do so by this chapter or any regulations implementing this chapter, whether by  
82 compensating anyone for services performed in its behalf or by donating free services,  
83 equipment, materials, office or meeting space or anything else of value, or by any other means.  
84 A TND organization shall not be deemed a company union only because it has negotiated or  
85 been granted the right to designate workers to be released with pay for the purpose of providing  
86 representational services in labor-management affairs on behalf of workers or represented by the  
87 TND organization, or where, in the course of providing representational services to workers for  
88 whom it is the exclusive bargaining representative, a TNC allows agents of the TND  
89 organization to meet with workers at the TNC's premises.

90 "Exclusive bargaining representative" means a TND organization certified by the board,  
91 in accordance with this chapter, as the representative of TNDs in a bargaining unit.

92 "Network company" means a TNC, except that a business entity that maintains an online-  
93 enabled application or platform that meets all three of the following tests is not a network  
94 company: (a) it is used to facilitate primarily non-rideshare services within the commonwealth of  
95 Massachusetts, (b) less than seven and one-half percent of service requests fulfilled through the  
96 platform on an annual basis are for rideshare services, and (c) fewer than ten thousand service  
97 requests fulfilled through the platform in any year are for rideshare services, is not a network  
98 company. For purposes of this paragraph, all applications or platforms that any related corporate  
99 entities under common control maintain shall be considered a single application or platform.

100           “Transportation network driver” or “TND” means a transportation network driver as  
101 described by § 1 of Chapter 159A1/2 of the General Laws. TND shall not include any individual  
102 who, with respect to the provision of services through a TNC’s online enabled-application or  
103 platform, is an employee within the meaning of section 29 U.S.C. § 152(3).

104           “Transportation network driver organization” or “TND organization” means any  
105 organization in which network drivers participate, and which exists and is constituted for the  
106 purpose, in whole or in part, of collective bargaining, or of dealing with network companies  
107 concerning grievances, terms or conditions of work, or of other mutual aid or protection and  
108 which is not a company union as defined herein.

109           “Transportation network company” or “TNC” means a transportation network company  
110 as described by § 1 of Chapter 159A1/2 of the General Laws.

111           “Unfair work practices” means only those unfair work practices listed in section 4,  
112 below.

113           section 3. Rights of TNDs. TNDs shall have the right of self-organization, to form,  
114 join, or assist TND organizations, to bargain collectively through representatives of their own  
115 choosing, and to engage in concerted activities, for the purpose of collective bargaining or other  
116 mutual aid or protection, free from interference, restraint, or coercion by TNCs, but nothing  
117 contained in this chapter shall be interpreted to prohibit TNDs from exercising the right to confer  
118 with TNCs at any time, provided that during such conference there is no attempt by such  
119 company, directly or indirectly, to interfere with, restrain or coerce such workers in the exercise  
120 of the rights guaranteed by this section.

121           Section 4. Unfair work practices.



- 122 (A) It shall be an unfair work practice for a TNC to
- 123 1. fail or refuse to provide the board with an accurate list of the names, trips or  
124 deliveries made, and contact information of TNDs, as required by this chapter;
- 125 2. refuse to negotiate in good faith with a certified or recognized TND organization  
126 representing TNDs engaged with such TNC concerning wages, hours, or terms and conditions of  
127 work. Since the obligation to negotiate in good faith includes an obligation to provide requested  
128 information that has a bearing on the bargaining process, it is also an unfair work practice for a  
129 TNC to refuse to provide a certified or recognized TND organization with relevant information  
130 requested by the TND organization for the performance of its duties as the TND’s bargaining  
131 representative;
- 132 3. refuse to provide a TND organization with a list of the names, addresses and  
133 telephone numbers of TNDs where the provision of such list is required by this chapter;
- 134 4. refuse to continue all the terms of a determination of terms and conditions of work  
135 prescribed by the Secretary of Labor pursuant to this chapter until a new determination is  
136 prescribed;
- 137 5. lockout TNDs. The term “lockout” shall mean, for the purposes of this section,  
138 a refusal by a TNC to permit a TND normal access to the TNC’s means of connecting TNDs to  
139 individuals seeking transportation service as a result of a dispute with such workers or a TND  
140 organization representing such workers that affects wages, hours and other terms and conditions  
141 of work of such workers, provided, however, that a lockout shall not include a termination of  
142 engagement of a worker for good cause that does not involve such worker exercising any rights  
143 guaranteed by this chapter.

144           6.       To spy upon or keep under surveillance, whether directly or through agents or any  
145 other person, any activities of TNDs or those workers' representatives or any other person, any  
146 activities of such workers or those workers' representatives in the exercise of the rights  
147 guaranteed by this chapter.

148           7.       To dominate or interfere with the formation, existence, or administration of any  
149 TND organization, or to contribute financial or other support to any such organization, by any  
150 means unless required to by this chapter or by any regulations implementing this chapter,  
151 including but not limited to the following:

152               (i) by participating or assisting in, supervising, controlling or dominating (1) the  
153 initiation or creation of any such organization or (2) the meetings, management, operation,  
154 elections, formulation or amendment of constitution, rules or policies, of any such organization

155               (ii) by offering incentives to TNDs to join any such organization;

156               (iii) by donating free services, equipment, materials, office or meeting space or anything  
157 else of value for the use of any such organization; provided that a TNC shall not be prohibited  
158 from permitting workers to perform representational work protected under this chapter during  
159 working hours without loss of time or pay or from allowing agents of a TND organization that is  
160 the exclusive representative of its network workers from meeting with workers on its premises.

161           8.       To require a TND to join any company union or TND organization or to refrain  
162 from forming, or joining or assisting a TND organization of their own choosing.

163           9.     To encourage membership in any company union or discourage membership in  
164 any TND organization, by discrimination in regard to hire or tenure or in any term or condition  
165 of employment or engagement.

166           10.    To discharge or otherwise discriminate against a TND because they have signed  
167 or filed any affidavit, petition or complaint or given any information or testimony under this  
168 chapter.

169           11.    To distribute or circulate any blacklist of individuals exercising any right created  
170 or confirmed by this chapter or of members of a TND organization, or to inform any person of  
171 the exercise by any individual of such right, or of the membership of any individual in a TND  
172 organization for the purpose of preventing individuals so blacklisted or so named from obtaining  
173 or retaining opportunities for remuneration.

174           12.    To do any acts, other than those already enumerated in this section, which  
175 interfere with, restrain or coerce TNDs in the exercise of the rights guaranteed by this chapter.

176           (B) It shall be an unfair work practice for a TND organization to

177           1.     Refuse to collectively bargain in good faith with a TNC, provided it is the  
178 certified or recognized representative of the company's workers. Since the obligation to  
179 negotiate in good faith includes an obligation to provide requested information that has a bearing  
180 on the bargaining process, it is also an unfair work practice for a certified or recognized TND to  
181 refuse to provide information requested by a TNC organization that is relevant to the bargaining  
182 process;

183           2.       restrain or coerce TNDs in the exercise of the rights guaranteed by this chapter,  
184 provided that this paragraph shall not impair the right of a TND organization to prescribe its own  
185 rules with respect to the acquisition or retention of membership in the organization;

186           3.       fail to fulfill its duty of fair representation toward TNDs where it is the exclusive  
187 bargaining representative by acts or omissions that are arbitrary, discriminatory, or in bad faith.

188           (C). Prevention of unfair work practices.

189           1.       The board is empowered and directed, as hereinafter provided, to prevent any  
190 TNC, and any TND organization from engaging in any unfair work practice described in this  
191 chapter. This power shall not be affected or impaired by any means of adjustment, mediation or  
192 conciliation in labor disputes that have been or may hereafter be established by law or by the  
193 determination provided for in section 7(F), below. In order to prevent unfair work practices,  
194 each TNC shall, at least once each year, send a text message and an e-mail to each of its active  
195 TNDs in a form determined by the board notifying the TNDs of their rights under this chapter,  
196 and the procedure for filing an unfair work practice charge. The board shall also post a copy of  
197 this notice on its website.

198           2.       Whenever it is charged that any TNC or TND organization has engaged in or is  
199 engaging in any such unfair labor practice, the board, or any agent or agency designated by the  
200 board for such purposes, shall have power to issue and cause to be served upon such TNC or  
201 TND organization a complaint stating the charges in that respect, and containing a notice of  
202 hearing before the board or a member thereof, or before a designated agent or agency, at a place  
203 therein fixed, not less than five days after the serving of said complaint. Any such complaint may  
204 be amended by the member, agent or agency conducting the hearing or the board in its discretion

205 at any time prior to the issuance of an order based thereon. The TNC or TND organization so  
206 complained of shall have the right to file an answer to the original or amended complaint and to  
207 appear in person or otherwise and give testimony at the place and time fixed in the complaint. In  
208 the discretion of the member, agent or agency conducting the hearing or the board, any other  
209 person may be allowed to intervene in the said proceeding and to present testimony. In any such  
210 proceeding the rules of evidence prevailing in courts of law or equity shall not be controlling.

211 3. If upon the record before them such member or agent shall determine that an  
212 unfair labor practice has been committed by a TNC or TND organization named in the  
213 complaint, they shall issue and cause to be served upon such person an order requiring such  
214 person to cease and desist from such unfair labor practice, and to take such further affirmative  
215 action as will effectuate the provisions of this chapter including, but not limited to (i)  
216 withdrawal of recognition from and refraining from bargaining collectively with any  
217 organization or association, agency or plan defined in this chapter as a company union or  
218 established, maintained or assisted by any action defined in this chapter as an unfair labor  
219 practice; (ii) awarding of back pay or other restoration of compensation without any reduction  
220 based on the TND's interim earnings or failure to earn interim earnings, consequential damages,  
221 and an additional amount as liquidated damages equal to two times the amount of damages  
222 awarded; (iii) requiring reengagement or reestablishment of the TNC's preexisting relationship  
223 with an improperly, adversely affected TNDs with or without compensation, or maintenance of a  
224 preferential list from which such worker shall be re-engaged or the relationship reestablished,  
225 and such order may further require such respondent to make reports from time to time showing  
226 the extent to which the order has been complied with; (iv) requiring respondent to provide the  
227 complainant with a list of all TNDs, together with those workers' physical and e-mail addresses

228 and known telephone numbers; and (v) requiring the TNC to recognize and bargain with a TND  
229 organization if the board determines that the unfair work practice interfered with the TND's right  
230 to form or join a TND organization. If the member or agent determines that an unfair labor  
231 practice has not been committed, they shall issue an order dismissing the complaint. An order  
232 issued pursuant to this subsection shall become final and binding unless, within ten days after  
233 notice thereof, any party requests review by the full board. A review may be made upon a written  
234 statement of the case by the member or agent agreed to by the parties, or upon written statements  
235 furnished by the parties, or, if any party or the board requests, upon a transcript of the testimony  
236 taken at the preliminary hearing, if any, together with such other testimony as the board may  
237 require.

238         If upon the record before it the board determines that an unfair practice has been  
239 committed it shall state its findings of fact and issue and cause to be served on the TNC or TND  
240 organization an order requiring such company or organization to cease and desist from such  
241 unfair labor practice, and to take such further affirmative action as will effectuate the provisions  
242 of this chapter. If upon the record before it the board determines that an unfair labor practice has  
243 not been committed, it shall state its findings of fact and shall issue an order dismissing this  
244 complaint.

245         4.       Until the record in a case shall have been filed in a court, as hereinafter provided,  
246 the board may at any time, upon reasonable notice and in such manner as it shall deem proper,  
247 modify or set aside, in whole or in part, any finding or order made or issued by it.

248         5.       The board may institute appropriate proceedings in the appeals court for  
249 enforcement of its final orders.

250           6.       Any party aggrieved by a final order of the board may institute proceedings for  
251 judicial review in the appeals court within thirty days after receipt of said order. The proceedings  
252 in the appeals court shall, insofar as applicable, be governed by the provisions of section fourteen  
253 of chapter thirty A.

254           7.       Injunctive relief.

255           (i) A party filing an unfair work practice charge under this section may petition the board  
256 to obtain injunctive relief, pending a decision on the merits of said charge by an administrative  
257 law judge, upon a showing that: (i) there is reasonable cause to believe an unfair work practice  
258 has occurred, and (ii) it appears that immediate and irreparable injury, loss or damage will result  
259 thereby rendering a resulting judgment on the merits ineffectual necessitating the maintenance  
260 of, or return to, the status quo to provide meaningful relief. Such immediate and irreparable  
261 harm may include the chilling of workers in the exercise of rights provided by this chapter.

262           (ii) Within ten days of the receipt by the board of such petition, if the board determines  
263 that a charging party has made a sufficient showing both that there is reasonable cause to believe  
264 an unfair work practice has occurred and it appears that immediate and irreparable injury, loss or  
265 damage will result thereby rendering a resulting judgment on the merits ineffectual necessitating  
266 maintenance of, or return to, the status quo to provide meaningful relief, the board shall petition  
267 the supreme court, upon notice to all parties for the necessary injunctive relief or, if the board  
268 determines not to seek injunctive relief, the charging party may seek injunctive relief by petition  
269 to the supreme court, in which case the board must be joined as a necessary party. The board or,  
270 where applicable, the charging party, shall not be required to give any undertakings or bond and  
271 shall not be liable for any damages or costs which may have been sustained by reason of any

272 injunctive relief ordered. If the board fails to act within ten days as provided herein, the board,  
273 for purposes of review, shall be deemed to have made a final order determining not to seek  
274 injunctive relief. In the case of a TNC's failure to provide an accurate list of names and  
275 addresses of TNDs, immediate and irreparable injury, loss, or damage shall be presumed.

276 (iii) Injunctive relief may be granted by the court, after hearing all parties, if it determines  
277 that there is reasonable cause to believe an unfair work practice has occurred and that it appears  
278 that immediate and irreparable injury, loss or damage will result thereby rendering a resulting  
279 judgment on the merits ineffectual necessitating maintenance of, or return to, the status quo to  
280 provide meaningful relief. Such relief shall expire on decision by an administrative law judge  
281 finding no unfair work practice to have occurred, successful appeal of the grant of injunction  
282 relief, or motion by respondent to vacate or modify pursuant to the provisions of the rules of civil  
283 procedure, or subsequent finding by the board that no unfair work practice has occurred. The  
284 administrative law judge shall conclude the hearing process and issue a decision on the merits  
285 within sixty days after the imposition of such injunctive relief unless mutually agreed by the  
286 respondent and charging party.

287 (iv) A decision on the merits of the unfair work practice charge by an administrative law  
288 judge finding an unfair work practice to have occurred shall continue the injunctive relief until  
289 either: (i) the respondent fails to file exceptions to the decision and implements the remedy, or  
290 (ii) the respondent successfully moves in court, upon notice, to vacate or modify the injunctive  
291 relief pursuant to provisions of Chapter 30A of the General Laws.

292 (v) Any injunctive relief in effect pending a decision by the board on exceptions to  
293 administrative law judge's decision: (i) shall expire upon a decision by the board finding no



294 unfair work practice to have occurred, of which the board shall notify the court immediately, or  
295 (ii) shall remain in effect only to the extent it implements any remedial order issued by the board  
296 in its decision, of which the board shall notify the court immediately.

297 (vi) The appeal of any order granting, denying, modifying or vacating injunctive relief  
298 ordered by the court pursuant to this subdivision shall be made in accordance with the rules of  
299 appellate procedure.

300 (vii) Except as provided in this section, judicial review of the orders of the board shall be  
301 as provided for section 9, below.

302 Section 5. Representatives.

303 (A) At the conclusion of each calendar quarter (March 31, June 30, September 30,  
304 December 31), each TNC shall have 30 days to submit to the board in an electronic format to be  
305 determined by the board, the names, phone numbers, mailing addresses, and email addresses for  
306 each active TND. These records shall not be subject to disclosure pursuant to Chapter 66 of the  
307 General Laws.

308 (B) Bargaining units. For purposes of this chapter, each TND shall be included in an  
309 industry-wide bargaining unit of all TNDs.

310 (C) Showing of designation of representative. A TND organization may demonstrate  
311 that it has been designated as a bargaining representative by presenting to the board cards, or  
312 petitions, or other evidence, which may be in electronic form, sufficient to show the TND has  
313 authorized the TND organization to act as the worker's exclusive bargaining representative. In  
314 order to be valid, such card, petition, or other evidence must have been executed by the worker

315 within one year of the date the TND organization submits the evidence to the board. Execution  
316 may be electronic.

317 (D) Representative status.

318 Upon the request of a TND organization, the board shall make a determination that such  
319 organization has been designated as bargaining representative by at least five percent of active  
320 TNDs in an appropriate bargaining unit.

321 Once the board determines that the TND organization has been designated as the  
322 bargaining representative of at least five percent of active TNDs in an appropriate bargaining  
323 unit, the board shall (1) require each TNC to send a notice, in a form determined by the board,  
324 that the TND organization is seeking to represent TNDs for the purpose of initiating a bargaining  
325 process in order to establish terms and conditions for the industry; and (2) provide the TND  
326 organization with a complete list of names, phone numbers, mailing address, and electronic mail  
327 address for all active TNDs in the bargaining unit. The board will provide the TND organization  
328 with an updated list each quarter for the next year. For six months from the date of the board's  
329 determination that a TND organization has met the five percent threshold in a bargaining unit, no  
330 other TND organization may be certified as the exclusive bargaining representative of those  
331 workers without an election.

332 Exclusive representative status. A TND organization that provides evidence to the board  
333 that it has been designated as bargaining representative by twenty-five percent of active TNDs in  
334 the bargaining unit shall be certified as the exclusive bargaining representative of all TNDs in the  
335 bargaining unit. In the alternative, a TND organization that has been designated as the  
336 bargaining representative of at least five percent of active TNDs in the bargaining unit may

337 petition the board to conduct an election. The election shall be conducted as expeditiously as  
338 possible, and if the TND organization receives a majority of valid votes cast it shall be certified  
339 as the exclusive bargaining representative.

340 Determination of Exclusive Representative Status in the Event of a Dispute among TND  
341 organizations.

342 (i) If a TND organization seeking certification as the exclusive bargaining representative  
343 provides evidence that shows that less than a majority of active TNDs have designated the TND  
344 organization as their bargaining representative, the board shall wait seven days before certifying  
345 the TND organization as exclusive bargaining representative, and if, during those seven days,  
346 another TND organization provides evidence that at least 25 percent of active TNDs in the  
347 bargaining unit have designated it as their bargaining representative, or a TND provides evidence  
348 that at least 25 percent of active TNDs in the bargaining unit do not wish to be represented by  
349 any TND organization, then the board shall hold an election among all active TNDs in the  
350 bargaining unit. Such election shall be conducted as expeditiously as possible. A TND  
351 organization receiving a majority of the valid votes cast shall be certified as the exclusive  
352 bargaining representative of all TNDs in the bargaining unit. When two or more TND  
353 organizations are on the ballot and none of the choices (the TND organizations or “no worker  
354 organization”) receives a majority of the valid votes cast, there shall be a run-off election  
355 between the two choices receiving the largest and second largest number of votes. A TND  
356 organization receiving a majority of the valid votes cast in the run-off shall be certified as the  
357 exclusive bargaining representative of all TNDs in the bargaining unit, and it shall owe a duty to  
358 fairly represent all such workers. For purposes of this provision, the operative list of active

359 TNDs shall be based on the most recent quarterly list provided by the TNCs in accordance with  
360 section 5(1).

361 (ii) A TND organization certified as the exclusive bargaining representative shall have  
362 the exclusive authority to represent the TNDs in the bargaining unit, without challenge by  
363 another TND organization, for the greater of (i) one year following certification; or (ii) the length  
364 of time that a final determination rendered by the Secretary of Labor under section 7(F) is in  
365 effect, provided that such period shall not be longer than three years following the date of  
366 issuance of such final determination. During the times when an exclusive bargaining  
367 representative is subject to challenge, TNDs may file for a decertification election upon a  
368 showing that at least twenty-five percent of the active TNDs in the bargaining unit have  
369 demonstrated support for the decertification. The board will then schedule an election to  
370 determine whether the TND organization has retained its status as exclusive bargaining  
371 representative. The TND organization shall retain its status as exclusive bargaining  
372 representative if it receives a majority of valid votes cast by active TNDs in the bargaining unit.

373 (iii) In the event that a TND organization has been designated the exclusive bargaining  
374 representative with respect to a bargaining unit, only that TND organization shall be entitled to  
375 (i) receive from the TNCs with workers covered by the bargaining unit a list of all of their TNDs,  
376 together with phone numbers, mailing addresses, and electronic mail addresses; and (ii) shall be  
377 entitled to engage in bargaining with such TNCs for recommendations to the Secretary of Labor  
378 concerning wages, benefits and terms and conditions of work of such workers.

379 (iv) Dues Deduction. A TND organization that has been designated as the exclusive  
380 bargaining representative with respect to a bargaining unit shall have a right to membership dues

381 deduction upon presentation of dues deduction authorization cards signed by individual TNDs,  
382 which may be in electronic form. A TNC shall commence making such deductions as soon as  
383 practicable, but in no case later than thirty days after receiving proof of a signed dues deduction  
384 authorization card, and such dues shall be submitted to the TND organization within thirty days  
385 of the deduction. A TNC shall accept a signed authorization to deduct dues in any format  
386 permitted by Title XV, Chapter 110G. The right to such membership dues deduction shall  
387 remain in full force and effect until an individual revokes membership in the TND organization  
388 in writing in accordance with the terms of the signed authorization.

389           Section 6. Employment Relations Board Administrative Fees. Beginning on the date that  
390 a TND organization is certified as the exclusive bargaining representative, each TNC shall  
391 impose a fee of ten cents per trip, which the board shall collect. The board shall use such fees to  
392 issue grants to the exclusive bargaining representative to educate TNDs regarding the TND bill  
393 of rights, to provide assistance in enforcing those rights, and to enforce the terms of an  
394 agreement or determination approved by the Secretary of Labor under this Chapter.

395           (A) The fee shall be ten cents per ride on each trip originating in the State performed by a  
396 TND. Beginning in 2024, the fee shall be adjusted annually to reflect any increase in inflation as  
397 measured by the Consumer Price Index for All Urban Consumers (CPI-U) published by the  
398 United States Bureau of Labor Statistics. The board shall calculate and publish the adjustments  
399 required by this subparagraph.

400           (B) The fee shall be displayed to customers as a “Employment Relations Board  
401 Administrative Fee.”

402 (C) The board shall by regulation adopt an exclusive bargaining representative grant  
403 application and criteria for evaluating such grant applications, including criteria to ensure that the  
404 exclusive bargaining representative has the capacity and expertise to provide education and  
405 enforcement support to TNDs. If the exclusive bargaining representative meets the criteria  
406 established by the board, the board shall approve the grant application and remit the fees to the  
407 exclusive collective bargaining representative on a monthly basis, with each payment occurring  
408 no more than thirty days following the end of the month. The fees shall be used by the TND  
409 organization solely to educate TNDs regarding this bill of rights, to provide assistance in  
410 enforcing those rights, and to enforce the terms of any agreement or determination approved by  
411 the Secretary of Labor under this Chapter. No portion of such fees shall be used for political  
412 contributions or lobbying. In the event no such grant is awarded or if the fees collected exceed  
413 the grant awarded, the board shall use such fees for educational activities regarding the  
414 provisions of this Chapter.

415 (D) Each exclusive bargaining representative shall submit an annual report to the board in  
416 a form to be determined by the board setting forth how the fees have been utilized. The board  
417 shall review each annual report and certify whether the exclusive bargaining representative is  
418 utilizing the fees for appropriate activities and continues to meet the grant application criteria.  
419 The board shall by regulation adopt a process by which it may suspend or revoke grants based on  
420 the failure to utilize the fees for educational or enforcement activities or the failure to meet the  
421 grant application criteria. If the board finds that the exclusive bargaining representative does not  
422 meet the grant application criteria, the board may utilize the fees for its own educational and  
423 enforcement activities, and the exclusive bargaining representative may reapply for a grant in the  
424 following year.

425 Section 7. Bargaining, Impasse resolution procedures, and final determination by the  
426 Secretary of Labor

427 Once the board determines that a TND organization is the exclusive bargaining  
428 representative for a bargaining unit, the board shall notify all TNCs in that industry, and all such  
429 TNCs shall be required to bargain with the exclusive bargaining representative concerning  
430 wages, benefits, and terms and conditions of work. The terms and conditions to be bargained  
431 include, but are not limited to, the criteria for deactivating a TND and a dispute resolution  
432 procedure for resolving claims alleging unjust deactivation. To facilitate negotiations, the TNCs  
433 may form an industry association to negotiate on their behalf. If the TNCs choose not to form an  
434 association, any recommended agreement must be approved by (i) at least two industry member  
435 TNCs and (ii) member TNCs representing at least eighty percent of the market share of that  
436 industry in Massachusetts, with votes determined in proportion to the number of rides completed  
437 by TNDs contracting directly with the TNC in the two quarters preceding the recognition of the  
438 certified representative.

439 Once the TND organization and the TNCs have reached a set of negotiated  
440 recommendations for the industry, the negotiated recommendations shall be submitted by the  
441 TND organization to a vote by all TNDs in the industry who have completed at least one  
442 hundred trips in the previous quarter. If approved by a majority of TNDs who vote, the  
443 negotiated recommendations shall be submitted to the Secretary of Labor for approval. If a  
444 majority of valid votes cast by the TNDs are not in favor of the negotiated recommendations, the  
445 transportation network worker organization and the TNCs will resume bargaining.

446 For purposes of this section, an impasse may be deemed to exist if the TNCs and  
447 exclusive bargaining representative have failed to achieve agreement by the end of a one hundred  
448 eighty-day period from the date a TND organization has been designated as the exclusive  
449 bargaining representative or from the expiration date of a prior determination by the Secretary of  
450 Labor as provided for in paragraph F, below.

451 Upon impasse, any of the affected TNCs or the exclusive bargaining representative may  
452 request the board to render assistance as provided in this section.

453 Upon receiving a timely request from an exclusive bargaining representative for  
454 commencement of an impasse proceeding, the board shall aid the parties as follows:

455 To assist the parties to effect a voluntary resolution of the dispute, the board shall appoint  
456 a mediator from a list of qualified persons maintained by the board; the parties shall be free to  
457 select a mediator satisfactory to them or to decline such selection.

458 If the mediator is unable to achieve agreement between the parties concerning an  
459 appropriate resolution within thirty days after the board has provided the parties the list of  
460 mediators, any party may petition the board to refer the dispute to an arbitrator.

461 Upon timely petition of either party, the board shall refer the dispute to an arbitrator as  
462 hereinafter provided.

463 (i) Prior to submitting the dispute to an arbitrator, the board shall conduct an election  
464 among all TNDs in the industry who have completed at least one hundred trips in the previous  
465 quarter. The TNDs will choose between submitting the dispute to the arbitrator or decertifying  
466 the exclusive bargaining representative. If the majority of eligible votes cast are for



467 decertification the exclusive bargaining representative shall be decertified and any existing  
468 regulations shall remain in place until they expire as provided in paragraph F below.

469 (ii). If a majority of TNDs who vote choose to have an arbitrator appointed, the exclusive  
470 bargaining representative shall notify the board of the need to appoint an arbitrator, and the board  
471 shall notify the TNCs of this request. Each of the two groups of affected parties (affected TNCs  
472 being one group, and the exclusive bargaining representative being the other group) shall have an  
473 equal say in the selection of the arbitrator and each of the two groups shall share equally the cost  
474 of the arbitrator. If the parties are unable to agree upon the arbitrator within seven days after the  
475 board notifies the TNCs of the need to appoint an arbitrator, the board shall submit to the parties  
476 a list of qualified, disinterested persons for the selection of an arbitrator. A representative of each  
477 of the two groups shall alternately strike from the list one of the names with the order of striking  
478 determined by lot, until the remaining one person shall be designated as the arbitrator. Each  
479 group shall select its representative for this purpose as it sees fit. A group's failure to agree upon  
480 the designation of its representative shall result in the failure of the striking procedure, but shall  
481 not impede the board's appointment of the arbitrator upon such failure. The striking process  
482 shall be completed within five days of receipt of the board's list. The representatives who  
483 undertake the striking shall notify the board of the designated arbitrator. In the event the parties  
484 are unable to select the arbitrator within five days following receipt of this list, the board shall  
485 appoint the arbitrator.

486 (iii) The arbitrator shall hold hearings on all matters related to the dispute. The parties  
487 may be heard either in person, by counsel, or by other representatives, as they may respectively  
488 designate. The arbitrator shall determine the order of presentation by the parties, and shall have  
489 discretion and authority to decide all procedural issues that may be raised;

490 (vi) The parties, including all TNCs engaging at least fifty TNDs in the bargaining unit  
491 and the exclusive bargaining representative affected, may present, either orally or in writing, or  
492 both, statements of fact, supporting witnesses and other evidence, and argument of their  
493 respective positions with respect to each case. The arbitrator shall have authority to require the  
494 production of such additional evidence, either oral or written as she or he may desire from the  
495 parties and shall provide at the request of either group of parties that a full and complete record  
496 be kept of any such hearings, the cost of such record to be borne by the requesting party. If such  
497 record is created, it shall be shared with all parties regardless of which party paid for it.

498 (v) Any TNC engaging less than fifty TNDs in the bargaining unit shall have the  
499 opportunity to make a written submission to the arbitrator.

500 (vi) The arbitrator shall make a just and reasonable determination of the matters in  
501 dispute, and shall issue a determination that shall apply to all TNCs in the bargaining unit and the  
502 exclusive bargaining representative. In arriving at such determination, the arbitrator shall specify  
503 the basis for their findings, taking into consideration, in addition to any factors recommended by  
504 the parties that the arbitrator finds to be consistent with this chapter, the following:

505 whether the wages, benefits, hours and conditions of work of the TNDs are sufficient to  
506 provide those individuals a standard of living that permits them to rent or own housing in the  
507 community, and to sustain themselves and their families in good health, and reasonable  
508 prosperity, including money set aside for emergencies and retirement. This amount must take  
509 into account the real cost of living, it may substantially exceed any statutory minimum wage, and  
510 should be a sufficient amount such that the TNDs and their dependents do not need to rely upon  
511 any public benefits;

512 whether the most efficient way to provide benefits is through a portable benefits fund,  
513 and if so, how to best assess each TNC a portion of the costs of providing those benefits;

514 the financial ability of the affected TNCs to pay for the compensation and benefits in  
515 question and the impact on the delivery of services provided by the companies;

516 the establishment of reasonable dispute resolution mechanisms that will allow TNDs a  
517 reasonable expectation of uninterrupted work and permit TNCs to alter or terminate their  
518 relationships with workers if there is just cause for such; and

519 comparison of peculiarities in regard to other trades or professions, including specifically,  
520 (i) hazards of work; (ii) physical qualifications; (iii) educational qualifications; (iv) mental  
521 qualifications; (v) job training and skills.

522 (F) Any recommendations agreed upon between TNCs and a TND organization acting as  
523 exclusive bargaining representative of TNDs in the bargaining unit and/or any determination  
524 reached by an arbitrator under this chapter shall be subject to review and approval by the  
525 Secretary of Labor. In deciding whether to grant approval to the arbitrator's recommendations,  
526 the Secretary of Labor's decision shall be based on the factors specified in paragraph C (3)(d),  
527 above, and the policies set forth in section 1. In deciding whether to approve such agreement or  
528 determination, the Secretary of Labor shall afford the exclusive representative, all TNCs, and  
529 TNDs the opportunity to submit comments and arguments concerning whether approval is  
530 warranted. the Secretary of Labor shall be entitled to approve or disapprove the agreement or  
531 determination. In the event of disapproval, the Secretary of Labor may make recommendations  
532 for amendments to the agreement or determination that would cause the Secretary of Labor to  
533 approve and afford the parties an opportunity to respond to those recommendations. The final

534 determination by the Secretary of Labor shall include a date following which new terms may be  
535 set for the bargaining unit which date shall not be more than three years following the date of the  
536 issuance of the determination. If during the three year period (or any lesser period that the  
537 Secretary of Labor sets as a duration for the final determination), the Secretary of Labor  
538 determines that market conditions have changed, the Secretary of Labor shall give the exclusive  
539 bargaining representative, all TNCs, and TNDs the opportunity to submit comments and  
540 arguments concerning whether the final determination should be modified, and after receiving  
541 those comments, the Secretary of Labor may modify the final determination.

542           Section 8. No agreement or determination made pursuant to this chapter shall  
543 diminish or erode a minimum labor standard that would otherwise apply to a TND.

544           Section 9. This law shall not preempt any commonwealth enactment which provides  
545 greater benefits or protection to a TND.

546           Section 10. Judicial Review.

547           (A) Final orders of the board made pursuant to this chapter shall be conclusive against all  
548 parties to its proceedings and persons who have had an opportunity to be parties to its  
549 proceedings unless reversed or modified in proceedings for enforcement or judicial review as  
550 herein provided. Final orders of the board shall be subject to review as provided in section 6 of  
551 Chapter 150A of the General Laws, provided that a final order of the board under section 5 of  
552 this chapter concerning the scope of bargaining units or the designation of a TND organization as  
553 an exclusive bargaining representative or as entitled to the production of lists of TNDs shall only  
554 be overturned if it is found to be arbitrary and capricious.

555 (B) Final orders of the Secretary of Labor pursuant to section 7(F) of this chapter shall be  
556 conclusive against all affected TND organizations and all TNCs in the industry unless reversed  
557 or modified in proceedings for enforcement or judicial review as herein provided. Such final  
558 orders shall be subject to review in accordance with the provisions of section fourteen of chapter  
559 30A of the General Laws, provided, however, that the determination of the Secretary of Labor  
560 shall only be overturned if it is found to be arbitrary and capricious.

561 (C) Except in a proceeding brought to challenge a final order of the Secretary of Labor,  
562 the determination of an arbitrator shall not be subject to judicial review.

563 Section 11. Rules and Regulations.

564 The board shall make such rules and regulations as may be appropriate to effectuate the  
565 purposes and provisions of this chapter.

566 SECTION 2. Regulation of Transportation Network Companies, Minimum  
567 Compensation, and Earned Sick Time.

568 Section 1. Chapter 159A1/2 of the General Laws is hereby amended by striking out  
569 Section 1, and inserting in place thereof the following section:-

570 Section 1. Definitions

571 As used in this chapter, the following words shall have the following meanings unless the  
572 context clearly requires otherwise:

573 “Background check clearance certificate”, verification issued by the division to a  
574 transportation network company and driver applicant, electronically or otherwise, that a driver

575 applicant successfully completed the background check required under section 3 and is suitable  
576 to provide transportation network services.

577 “Cruising”, the driving of a vehicle on the streets, alleys or public places of motorized  
578 travel in search of or soliciting hails from a person in the street.

579 “Department”, the department of public utilities.

580 “Digital network”, any online-enabled application, software, website or system offered or  
581 utilized by a transportation network company that enables pre-arranged rides with transportation  
582 network drivers.

583 “Division”, the division established in section 23 of chapter 25.

584 “Engaged time,” the total time a transportation network driver spent on the way to pick  
585 up a rider in addition to the total time the transportation network driver spent providing that rider  
586 with a pre-arranged ride,”

587 “Pre-arranged ride”, a period of time that begins when a transportation network driver  
588 accepts a requested ride through a digital network, continues while the driver transports the  
589 transportation network company rider and ends when the rider safely departs from the vehicle.

590 “Transportation network company” or “TNC”, a corporation, partnership, sole  
591 proprietorship or other entity that uses a digital network to connect riders to drivers to pre-  
592 arrange and provide transportation.

593 “Transportation network company permit” or “permit”, a document that may be issued by  
594 the division to a qualifying transportation network company pursuant to this chapter.

595 “Transportation network driver” or “TND,” a driver certified by a transportation network  
596 company who provides services through a TNC’s on-line enabled application or platform and  
597 provides service for which the pick up of the passenger occurs within the Commonwealth.

598 “Transportation network driver certificate” or “driver certificate”, an authorization to  
599 provide transportation network services issued by the transportation network company to a  
600 transportation network driver.

601 “Transportation network rider” or “rider”, a passenger in a pre-arranged ride provided by  
602 a transportation network driver, provided that the passenger personally arranged the ride or an  
603 arrangement was made on the rider's behalf.

604 “Transportation network services” or “services”, the offering or providing of pre-  
605 arranged rides for compensation or on a promotional basis to riders or prospective riders through  
606 the transportation network company's digital network, covering the period beginning when a  
607 transportation network driver is logged onto the transportation network company's digital  
608 network and is available to receive a pre-arranged ride or while in the course of providing a pre-  
609 arranged ride.

610 “Transportation network vehicle” or “vehicle”, a vehicle that is used by a transportation  
611 network driver to provide transportation network services.

612 Section 2. Section 3 of Chapter 159A1/2 of the General Laws is hereby amended by  
613 inserting after subsection (e) the following new subsection (f) and (g):-

614 (f) The director of the division of public utilities in consultation with the commissioner of  
615 labor standards shall study:

616 (i) income TNDs derive from operating vehicles that provide transportation services to  
617 passengers;

618 (ii) the amount of of TND engaged time time as compared to the entire period of time  
619 beginning when the TND has activated a mode in a TNC's internet-enabled application or digital  
620 platform, signaling the driver's readiness to receive and respond to trip requests and ending when  
621 the TND deactivates the mode and is no longer able to receive and respond to trip requests;

622 (iii) the amount of time TNDs spend in the period of time beginning when the TND has  
623 activated a mode in a TNC's internet-enabled application or digital platform, signaling the  
624 driver's readiness to receive and respond to trip requests and ending when the TND deactivates  
625 the mode and is no longer able to receive and respond to trip requests, by day and by week;

626 (iv) the number of miles that TNDs drive during the period of time beginning when the  
627 TND has activated a mode in a TNC's internet-enabled application or digital platform, signaling  
628 the driver's readiness to receive and respond to trip requests and ending when the TND  
629 deactivates the mode and is no longer able to receive and respond to trip requests, by day or  
630 week;

631 (v) the amount of time spent by TNDs waiting for an offer and not engaged during the  
632 period of time beginning when the TND has activated a mode in a TNC's internet-enabled  
633 application or digital platform, signaling the driver's readiness to receive and respond to trip  
634 requests and ending when TND deactivates the mode and is no longer able to receive and  
635 respond to trip requests

636 (vi) TND well-being; and



637 (vii) such other topics as the director of the division of public utilities in consultation with  
638 the commissioner of labor standards deems appropriate.

639 The study shall be conducted no later than three months after the effective date of this  
640 chapter.

641 (g) No later than six months after the effective date, and every annual anniversary  
642 thereafter, in order to further the Commonwealth's interest in ensuring fair TND income,  
643 ensuring efficient provision of passenger services, and based on the results of the study  
644 conducted pursuant to subdivision a of this section, the director of the division of public utilities:

645 (i) Shall determine the average proportion of TND engaged time as compared to the  
646 entire period of time beginning when the TND has activated a mode in a TNC's internet-enabled  
647 application or digital platform, signaling the driver's readiness to receive and respond to trip  
648 requests and ending when the TND deactivates the mode and is no longer able to receive and  
649 respond to trip requests;

650 (ii) Shall determine the average proportion of miles driven by TNDs during engaged time  
651 to average total miles driven during the period of time beginning when the TND has activated a  
652 mode in a TNC's internet-enabled application or digital platform, signaling the driver's readiness  
653 to receive and respond to trip requests and ending when the TNC deactivates the mode and is no  
654 longer able to receive and respond to trip requests;

655 (iii) Shall establish a rate of accrual of earned sick time under Chapter 148C of the  
656 Massachusetts General Laws that ensures that transportation network drivers accrue the  
657 equivalent of one hour of earned sick time for every thirty hours worked; and

658 (iv) Shall determine the average amount of time spent by TNDs waiting for an offer and  
659 not engaged during the period of time beginning when the TND has activated a mode in a TNC's  
660 internet-enabled application or digital platform, signaling the driver's readiness to receive and  
661 respond to trip requests and ending when TND deactivates the mode and is no longer able to  
662 receive and respond to trip requests;

663 v) Shall establish the maximum period of time TND's on average may spend waiting for  
664 an offer during the period of time beginning when the TND has activated a mode in a TNC's  
665 internet-enabled application or digital platform, signaling the driver's readiness to receive and  
666 respond to trip requests and ending when the TND deactivates the mode and is no longer able to  
667 receive and respond to trip requests, and shall establish a procedure for temporarily restricting  
668 the ability of a TNC to certify TNDs pursuant to section 4 of this Chapter in order to maintain  
669 the desired average level of TND utilization.

670 Section 3. Section 4 of Chapter 159A1/2 of the General Laws is hereby amended by  
671 inserting a new subsection (g):-

672 (g) A Transportation Network Company shall not be permitted to issue a transportation  
673 network driver certificate to any driver during any period in which the director of the division of  
674 public utilities has restricted the ability of a Transportation Network Company to certify a driver,  
675 pursuant to the procedure adopted under subsection 3(h)(iv) of this Chapter,

676 Section 4. Section 12 of Chapter 159A1/2 of the General Laws, is hereby struck and  
677 replaced to read as follows:

678 Section 12. (a) On the first day of each month, each transportation network company  
679 shall submit to the division, in a format approved by the division, data related to each pre-

680 arranged ride provided in the month prior to the previous month and shall include for each pre-  
681 arranged ride: (i) the latitude and longitude for the points of the origination and termination,  
682 calculated to 0.001 decimal degrees; (ii) the date and time of the origination and termination,  
683 calculated to the nearest minute; (iii) the total cost paid by the rider for the ride; (iv) the  
684 universally-unique identifier associated with the transportation network driver; (v) the  
685 transportation network driver's city or town of residence as appearing on the driver's license; (vi)  
686 whether the rider requested a shared ride but was not successfully matched with another rider;  
687 (vii) whether the rider requested accommodation for special needs; (viii) whether the ride was  
688 provided by a wheelchair accessible vehicle; (ix) whether there were any driver or rider-initiated  
689 cancellations; (x) the total time that the transportation network driver spent on the way to pick up  
690 the rider; (xi) the total time that the transportation network driver spent providing the pre-  
691 arranged ride; (xii) the geographic position of the vehicle during the entire duration of the pre-  
692 arranged ride, provided at intervals of not less than every 60 seconds of the pre-arranged ride;  
693 (xiii) the total mileage driven by the transportation network driver while on the way to pick up  
694 the rider; (xiv) the total mileage driven by the transportation network driver while providing the  
695 pre-arranged ride; (xv) the transportation network vehicle license plate; (xvi) whether the  
696 transportation network driver is a professional driver, as advertised by the transportation network  
697 company; and (xvii) whether the pre-arranged ride was advertised by the transportation network  
698 company as a luxury or premium ride, regardless of whether the transportation network vehicle  
699 was registered as a livery vehicle; provided, however, that if the pre-arranged ride was advertised  
700 by the transportation network company as a luxury or premium ride, the factors that were  
701 considered in that designation, including, but not limited to, vehicle make, model, year and, if  
702 available, trim, whether the transportation network driver was a professional driver, as advertised

703 by the transportation network company and whether the ride was available by an exclusive  
704 membership option.; (xviii) the itemized fare for each trip including the amount of the fare, any  
705 toll, surcharge, sales or other taxes, commission rate, other deduction, any tip or gratuity, and a  
706 breakdown of the amount such passenger paid for the trip, including base, time, mileage, waiting  
707 time, surge factor, passenger discounted, pet or other applicable fees; and; (xix) the payment that  
708 each TND received and any deductions for fuel, lease, or other charges or fees imposed on the  
709 driver for each trip or the hourly rate paid; (xx) A record of each TND session on the licensee's  
710 Internet-enabled application or digital platform. For purposes of this section, a driver's session  
711 begins when a licensee's TND activates a mode in the licensee's Internet-enabled application or  
712 digital platform, signaling the TND's readiness to receive and respond to trip requests. For  
713 purposes of this section, a TND's session ends when the TND deactivates the mode and is no  
714 longer able to receive and respond to trip requests; and (xxi) The amount of time spent each day  
715 and the miles driven by each vehicle transporting passengers for hire, as well as the time spent  
716 and miles driven each day by such vehicle on the way to a passenger, and time spent and miles  
717 driven by such vehicle while online in a session, between trips but not on the way to a passenger.

718 (b) The division may obtain additional ride data from a transportation network company  
719 for the purposes of: (A) congestion management, which may include, but shall not be limited to:  
720 (i) the total number of transportation network drivers that utilized the transportation network  
721 vehicle's digital network within specified geographic areas and time periods as determined by  
722 the division; and (ii) the total time spent and total miles driven by transportation network drivers  
723 in such geographic areas or time periods as determined by the division while (A) on the way to  
724 pick up a rider or (B) engaged in a pre-arranged ride: Or (B) Any additional information required  
725 by the division to conduct the study required by subsection 3(f) of Chapter 159A1/2 of the

726 General Laws as amended; or (C) to make any of the determinations required under 3(g) of  
727 Chapter 159A1/2 of the General Laws as amended or the issuance of permits authorized to be  
728 regulated by subsection 3(c) of Chapter 159A1/2 of the General Laws as amended; The division  
729 shall promulgate regulations relative to data collection pursuant to this subsection prior to  
730 obtaining the data. Each data submission to the division pursuant to this section and any rules  
731 promulgated hereunder shall be accompanied by an attestation, made under penalty of perjury,  
732 that the data submitted is accurate and complete. The failure to maintain or furnish information  
733 to the division within a timeline to be determined by the division may, at the discretion of the  
734 division, constitute cause to not issue, suspend or revoke a transportation network company  
735 permit pursuant to section 6 of chapter 159A1/2 of the general laws.

736 (c) Annually, not later than June 30, the division shall post on its website, in aggregate  
737 form, the total number of rides provided by all transportation network companies that originated  
738 in each city or town, each city or town where the rides originating in each city or town  
739 terminated and the average miles and minutes of the rides that originated in each city or town  
740 and terminated in each other respective city or town.

741 (d) For the purposes of congestion management, transportation planning or emissions  
742 tracking, the division may enter into confidential data-sharing agreements to share de-identified  
743 trip-level data received by the division pursuant to this section with the executive office of  
744 technology services and security, the executive office of energy and environmental affairs, the  
745 Massachusetts Department of Transportation, the Massachusetts Port Authority, the  
746 Massachusetts Bay Transportation Authority, the department of environmental protection, a  
747 regional transit authority established under section 3 of chapter 161B, a regional planning agency  
748 in the commonwealth and a metropolitan planning organization in the commonwealth. The

749 division shall prescribe the form and content of a confidential data-sharing agreement under this  
750 subsection, the manner of transmitting the information and the information security measures  
751 that shall be employed by an entity receiving the data under any such datasharing agreement. A  
752 confidential data-sharing agreement shall specify that the information provided by the division  
753 shall be aggregated and de-identified and may be used only for the purposes set forth in the  
754 agreement. Any data received by an entity from the division through a confidential data-sharing  
755 agreement under this subsection shall not be considered a public record under clause Twenty-  
756 sixth of section 7 of chapter 4 or chapter 66 and shall not be disclosed to any person or entity  
757 other than those listed or described in the confidential data-sharing agreement; provided,  
758 however, that a state or municipal government agency or transportation planning entity may  
759 disclose conclusions and analyses derived from the information and from the data received  
760 pursuant to a confidential data-sharing agreement.

761 (e) A violation of the terms of a confidential data-sharing agreement by an entity listed in  
762 subsection (d) may result in the division declining to enter into future confidential data-sharing  
763 agreements with the violating entity and in the termination of any existing data-sharing  
764 agreement with the entity. The division shall notify each transportation network company whose  
765 data was shared in violation of the terms of a confidential data-sharing agreement of the  
766 violation, the violating entity and what data was shared. An entity listed in subsection (d) that  
767 violates the terms of a confidential data-sharing agreement shall destroy all data received as a  
768 result of the confidential data-sharing agreement.

769 Section 5. Chapter 151 of the General Laws is hereby amended by striking out section 1  
770 and inserting in place thereof the following section:-

771 Section 1. Oppressive and unreasonable wages; validity of contracts

772 [Text of section as amended by 2018, 121, Sec. 21 effective January 1, 2023. See 2018,  
773 121, Sec. 36. For text effective until January 1, 2023, see above.]

774 Section 1. It is hereby declared to be against public policy for any employer to employ  
775 any person or any TNC to rely on a TND for the provision of rides in an occupation in this  
776 commonwealth at an oppressive and unreasonable wage as defined in section two, and any  
777 contract, agreement or understanding for or in relation to such employment shall be null and  
778 void. A wage of less than \$15.00 per hour, in any occupation, as defined in this chapter, shall  
779 conclusively be presumed to be oppressive and unreasonable, wherever the term “minimum  
780 wage” is used in this chapter, unless the commissioner has expressly approved or shall expressly  
781 approve the establishment and payment of a lesser wage under the provisions of sections seven  
782 and nine. Notwithstanding the provisions of this section, in no case shall the minimum wage rate  
783 be less than \$.50 higher than the effective federal minimum rate.

784 Section 6. Chapter 151 of the General Laws is hereby amended by striking out Section 2  
785 and inserting in place thereof the following Section:-

786 Section 2. The following words and phrases as used in this chapter shall have the  
787 following meanings, unless the context clearly requires otherwise:

788 “A fair wage”, a wage fairly and reasonably commensurate with the value of the service  
789 or class of service rendered. In establishing a minimum fair wage for any service or class of  
790 service under this chapter the commissioner without being bound by any technical rules of  
791 evidence or procedure (1) may take into account the cost of living and all other relevant  
792 circumstances affecting the value of the service or class of service rendered, (2) may be guided

793 by like considerations as would guide a court in a suit for the reasonable value of services  
794 rendered where services are rendered at the request of an employer in the absence of an express  
795 contract as to the amount of the wage to be paid, and (3) may consider the wages paid in the  
796 commonwealth for work of like or comparable character by employers who voluntarily maintain  
797 minimum fair wage standards.

798 “A mandatory order”, an order the violation of which is subject to the penalties  
799 prescribed in subsection (2) of section nineteen.

800 “An oppressive and unreasonable wage”, a wage which is both less than the fair and  
801 reasonable value of the services rendered and less than sufficient to meet the minimum cost of  
802 living necessary for health.

803 “Commissioner”, the director of the department of labor standards.

804 “Department”, the department of labor standards.

805 “Occupation”, an industry, trade or business or branch thereof or class of work therein,  
806 whether operated for profit or otherwise, and any other class of work in which persons are  
807 gainfully employed, but shall not include professional service, agricultural and farm work, work  
808 by persons being rehabilitated or trained under rehabilitation or training programs in charitable,  
809 educational or religious institutions, work by seasonal camp counselors and counselor trainees or  
810 work by members of religious orders. Occupation shall also not include outside sales work  
811 regularly performed by outside salesmen who regularly sell a product or products away from  
812 their employer's place of business and who do not make daily reports or visits to the office or  
813 plant of their employer.



814 “Agricultural and farm work”, labor on a farm and the growing and harvesting of  
815 agricultural, floricultural and horticultural commodities.

816 “Trip,” a transportation service that involves picking up a passenger at a location, and  
817 taking and depositing such passenger at a different location requested by such passenger.

818 “Transportation network driver” or “TND” shall be defined as described in § 1 of Chapter  
819 159A1/2 of the General Laws.

820 “Transportation network company” or “TNC” shall be defined as described in § 1 of  
821 Chapter 159A1/2 of the General Laws.

822 Section 7. Chapter 151 of the General Laws is hereby amended by striking out section 3  
823 and inserting in place thereof the following section:-

824 Section 3. The commissioner or the attorney general, or their authorized representatives,  
825 shall have full power and authority:

826 1. To investigate and ascertain the wages of persons employed in any occupation in the  
827 commonwealth, including TNDs;

828 2. To enter the place of business or employment of any employer of persons in any  
829 occupation, and any TNC, other than domestic service in the home of the employer, for the  
830 purpose of examining, inspecting and making a transcript of any and all books, registers, pay-  
831 rolls, and other records of any employer of persons and any TND that in any way appertain to or  
832 have a bearing upon the question of wages of any such persons and for the purpose of  
833 ascertaining whether the orders of the commissioner or the attorney general have been and are  
834 being complied with; and

835           3. To require from such employer or TND full and correct statements in writing when the  
836 commissioner or the attorney general, or their authorized representatives, deem necessary, of the  
837 wages paid to all persons in his employ or all TNDs, such statements to be under oath or  
838 accompanied by a written declaration that they are made under the penalties of perjury.

839           4. To carry out the provisions of this chapter.

840           Section 8. Chapter 151 of the General Laws is hereby amended by inserting a new  
841 Section 7b:-

842           Section 7b. Minimum payments to transportation network workers and minimum fares.

843           It is hereby declared to be against public policy for any TND to be paid an oppressive  
844 and unreasonable wage. In order to ensure that TNDs are not paid an oppressive or unreasonable  
845 wage, by DATE, the commissioner (of the department of labor standards) in consultation with  
846 the department of public utilities shall issue : i) a rule establishing the minimum payment that  
847 must be made to a TND for a trip pre-arranged through the TNC's digital network, and ii) a rule  
848 establishing the minimum rate of compensation for TND expenses. The goal for the minimum  
849 payment rule is to establish a rate of payment for each trip, that ensures that the aggregate  
850 average hourly compensation to TNDs, for both engaged time and time spent waiting for an  
851 offer, during the period of time beginning when the TND has activated a mode in a TNC's  
852 internet-enabled application or digital platform, signaling the driver's readiness to receive and  
853 respond to trip requests and ending when the TND deactivates the mode and is no longer able to  
854 receive and respond to trip requests, is no less than the equivalent of the minimum wage  
855 established under section 1 of this chapter. The rule establishing the minimum compensation to  
856 cover TND expenses shall be in addition to the minimum payment, and shall be calculated based

857 on industry averages relating to TND expenses. The goal for this rule is to establish a per-mile  
858 rate of reimbursement per trip that ensures that the aggregate average reimbursement for  
859 expenses to TNDs reflects actual average TND expenses for miles driven during engaged time  
860 as well miles driven on average during time spent waiting for an offer in the period beginning  
861 when a transportation network driver has activated a mode in the licensee's Internet-enabled  
862 application or digital platform, signaling the driver's readiness to receive and respond to trip  
863 requests and ending when the TND deactivates the mode and is no longer able to receive and  
864 respond to trip requests. In establishing the minimum compensation to cover TND expenses, the  
865 commissioner shall refer to the average proportion of miles driven by TNDs during engaged time  
866 to average total miles driven as determined by the director of the division of public utilities  
867 pursuant to subsection 3(h)(ii) of Chapter 159A1/2 of the General Laws.

868 Any minimum payment determined by the commissioner of the department of labor  
869 standards pursuant to this section shall not include gratuities, tolls, or surcharges, nor shall it  
870 include fees charged by the transportation network company. A transportation network company  
871 shall not retain any portion of any gratuity or use gratuities to offset or cover any portion of  
872 minimum payments required by this section.

873 The Commissioner shall examine relevant data and revise the rules establishing minimum  
874 payment and minimum compensation for expenses as necessary to further the goals of this  
875 section.

876 Section 9. Chapter 151 of the General Laws is hereby amended by striking out Section 11  
877 and inserting in place thereof the following Section:-

878 Section 11. Failure to observe fair wage or regulations; summons; hearing; publication of  
879 names, liability.

880 Section 11. If the commissioner has reason to believe that any employer is not paying a  
881 fair wage or not observing other minimum wage regulations, or any TNC is not complying with  
882 the requirements of the minimum payment and/or minimum compensation rules established  
883 pursuant to Section 7b of Chapter 151 of the General laws, the commissioner may, on fifteen  
884 days notice, summon such employer to show cause why the name of such employer or such TNC  
885 should not be published as having committed such violation. After a hearing and a finding of  
886 nonobservance, the commissioner may cause to be published in such newspaper or newspapers  
887 within this commonwealth or in such other manner as he may deem appropriate, the name of  
888 such employer or employers, or TNC or TNCs. Neither the commissioner nor any authorized  
889 representative of the commissioner nor any newspaper publisher, proprietor, editor or employee  
890 thereof shall be liable to an action for damages for publishing the name of any employer or any  
891 TNC as provided herein unless guilty of wilful misrepresentation.

892 Section 10. Chapter 151 of the General Laws is hereby amended by striking out section  
893 15 and inserting in place thereof the following section:-

894 Section 15: Employer's and TNC's records; statement furnished to commissioner or  
895 attorney general; inspection of records by employee.

896 Section 15. Every employer and every TNC shall keep a true and accurate record of the  
897 name, address and occupation of each employee, of the amount paid each pay period to each  
898 employee or TND, of the hours worked each day and each week by each employee or TND, and  
899 such other information as the commissioner or the attorney general in their discretion shall deem

900 material and necessary. Such records shall be kept on file for at least 3 years after the entry date  
901 of the record. Such records shall be maintained at the place of employment, at an office of the  
902 employer, or with a bank, accountant or other central location and shall be open to the inspection  
903 of the commissioner or the attorney general, or their authorized representatives at any reasonable  
904 time, and the employer or TNC shall furnish immediately to the attorney general, commissioner  
905 or representative, upon request, a copy of any of these records. Every employer and every TNC  
906 shall furnish to the commissioner, or the attorney general, or their authorized representative, on  
907 demand, a sworn statement of such record, and, if the commissioner or the attorney general shall  
908 so require, upon forms prescribed or approved by him. An employer shall allow an employee and  
909 a TNC shall show a TND at reasonable times and places to inspect the records kept under this  
910 section and pertaining to that employee.

911 Section 11. Chapter 151 of the General Laws is hereby amended by striking out Section  
912 16 and inserting in place thereof the following Section:-

913 Section 16: Posting orders and rules.

914 Section 16. Every employer and every TNC, except employers of persons engaged in  
915 domestic service in the employer's home, subject to a minimum fair wage order shall keep a copy  
916 of such order posted in a conspicuous place in every room in which persons are employed and  
917 through any means the TNC normally uses to communicate with TNDs . Employers and TNCs  
918 shall be furnished copies of orders or notices on request without charge. The commissioner may  
919 require each employer or TNC in any occupation subject to this chapter to post rules which apply  
920 to such employer's employees or TNCs, in such reasonable way or ways and for such length of  
921 time as he may direct.

922 Section 12. Chapter 151 of the General Laws is hereby amended by striking out section  
923 17 and inserting in place thereof the following section:-

924 Section 17: Department or attorney general questioning employees.

925 Section 17. Each employer and each TNC shall permit any duly authorized officer or  
926 employee or TND of the department or of the attorney general to question any employee of such  
927 employer or any TND in the place of employment or where the TND performs work for the  
928 TNC, other than places of employment of persons engaged in domestic service in the home of  
929 the employer, and during work hours in respect to the wages paid to and the hours worked by  
930 employees or TNDs.

931 Section 13. Chapter 151 of the General Laws is hereby amended by striking out Section  
932 19 and inserting in place thereof the following Section:-

933 Section 19: Punishments for stated acts.

934 Section 19. (1) Any employer and his agent or any TNC and his agent, or the officer or  
935 agent of any corporation who discharges or in any other manner discriminates against any  
936 employee or TND, including any employee in the domestic service of any family or person at his  
937 home, because such employee or TND has complained of a violation of the provisions of this  
938 chapter, or has testified or is about to testify in any investigation or proceeding under or related  
939 to this chapter, or because such employer or TNC believes that said employee, TND, or  
940 individual may complain of a violation of the provisions of this chapter, shall have violated this  
941 section and shall be punished or shall be subject to a civil citation or order as provided in section  
942 27C of chapter 149, and shall be liable for damages which shall not be less than one month's

943 wages nor more than two month's wages of such individual, and the costs of the suit, including a  
944 reasonable attorney's fee.

945 (2) Any employer or TNC or the officer or agent of any corporation who knowingly pays  
946 or agrees to pay to any employee less than the rates applicable to such employee under a  
947 regulation minimum fair wage established by the commissioner, or who pays or agrees to pay to  
948 a TND less than the minimum payment and/or minimum compensation rules established  
949 pursuant to section 7b of Chapter 151 of the General laws, or who pays or agrees to pay to any  
950 employee less than one dollar and eighty-five cents per hour in any occupation not covered by a  
951 minimum wage regulation shall have violated this section and shall be punished or shall be  
952 subject to a civil citation or order as provided in section 27C of chapter 149, and each week in  
953 any day of which such employee or TND is paid less than the rate applicable to him under a  
954 minimum fair wage regulation and each employee TND so paid less, shall constitute a separate  
955 offense.

956 (2A) Any employer or the officer or agent of any corporation who knowingly pays or  
957 agrees to pay to any employee in agriculture and farming less than one dollar and sixty cents per  
958 hour shall have violated this section and shall be punished or shall be subject to a civil citation or  
959 order as provided in section 27C of chapter 149, and each week in any day in which such  
960 employee is paid less shall constitute a separate offense.

961 (3) An employer or TNC or the officer or agent of a corporation who fails to keep the true  
962 and accurate records required under this chapter or to furnish a record to the attorney general, the  
963 commissioner, or an authorized representative of the attorney general or commissioner upon  
964 request, or who falsifies a record, or who fails to allow an employee or TND to inspect a record

965 under section 15, or who fails to comply with a requirement of the commissioner under the last  
966 sentence of section 16, or who hinders or delays the attorney general, commissioner or  
967 representative in the performance of his duties, or who refuses to admit, or locks out, the attorney  
968 general, commissioner, or representative from a place of employment or location where a TND  
969 performs work, other than a place of employment of a person engaged in domestic service in the  
970 home of the employer, which he is authorized to inspect, shall have violated this section and  
971 shall be punished or shall be subject to a civil citation or order as provided in section 27C of  
972 chapter 149, and each day of the failure to keep a record or to furnish to the attorney general,  
973 commissioner or representative a record or other information required for the proper enforcement  
974 of this chapter shall constitute a separate offense.

975 (4) No person shall, for the purpose of evading this chapter, establish any arrangement or  
976 organization in his business, by contract, lease or agreement, whether written or oral, whereby a  
977 person who would otherwise be his employee does not have the status of such an employee. If  
978 the commissioner is of the opinion that any person has established an arrangement or  
979 organization in violation of this paragraph, after a public hearing, due notice whereof shall have  
980 been given, and at which a reasonable opportunity to be heard has been afforded to such person,  
981 he may order such person to cease and desist from such violation; and such an order shall be  
982 subject to review under section fourteen in the same manner and to the same extent as any  
983 decision of the commissioner under this chapter. Any person so ordered to cease and desist who  
984 fails to comply therewith for thirty days after such order has been served upon him shall have  
985 violated this section and shall be punished or shall be subject to a civil citation or order as  
986 provided in section 27C of chapter 149.



987 (5) Whoever directly or indirectly solicits, demands, requests or accepts from any  
988 employee or TND any return of a portion of his wages, which would result in such employee or  
989 TND retaining less than the rate of wages required by this chapter, or whoever threatens, coerces  
990 or intimidates any employee or TND who has wages due under this chapter, for the purpose of  
991 causing such person to accept as payment in full a lesser sum than the full amount of the wages  
992 so due, shall have violated this section and shall be punished or shall be subject to a civil citation  
993 or order as provided in section 27C of chapter 149, and each employee or TND so solicited or  
994 threatened shall constitute a separate offense. An employer or TNC who discharges or in any  
995 other manner penalizes or discriminates against an employee or TND because the employee or  
996 TND has made a complaint to the attorney general or any other person, or assists the attorney  
997 general in an investigation under this chapter, or has instituted, or caused to be instituted a  
998 proceeding under or related to this chapter, or has testified or is about to testify in the  
999 proceeding, or has taken any other action to seek rights under this chapter, shall have violated  
1000 this section and shall be punished or shall be subject to a civil citation or order as provided in  
1001 section 27C.

1002 Section 14. Chapter 151 of the General Laws is hereby amended by striking out section  
1003 20 and inserting in place thereof the following section:-

1004 Section 20: Payment of less than minimum fair wage; recovery of deficiency; unclaimed  
1005 award; deposit of funds.

1006 Section 20. If a person is paid by an employer less than the minimum fair wage to which  
1007 the person is entitled under or by virtue of a minimum fair wage regulation, including the  
1008 minimum payment and/or minimum compensation rules applicable to TNDs and established

1009 pursuant to section 7b of Chapter 151 of the General laws, or less than \$1.85 per hour in a  
1010 manufacturing occupation or in any other occupation not covered by a minimum fair wage  
1011 regulation, the person may institute and prosecute in his own name and on his own behalf, or for  
1012 himself and for others similarly situated, a civil action for injunctive relief, for any damages  
1013 incurred and for the full amount of the minimum wages less any amount actually paid to him by  
1014 the employer or TNC. An agreement between the person and the employer to work for less than  
1015 the minimum wage, or between a TND and a TNC to work for less than the minimum payment  
1016 and/or minimum compensation rules established pursuant to section 7b of Chapter 151 of the  
1017 General laws, shall not be a defense to such action. An employee or TND so aggrieved who  
1018 prevails in such an action shall be awarded treble damages, as liquidated damages, for any loss of  
1019 minimum wage and shall also be awarded the costs of the litigation and reasonable attorneys'  
1020 fees. At the request of any employee paid less than the minimum wage, or TND paid less than  
1021 the minimum payment and/or minimum compensation rules established pursuant to section 7b of  
1022 Chapter 151 of the General laws, to which he or she is entitled the attorney general may take an  
1023 assignment of such wage claim in trust for the assigning employee or TND and may bring any  
1024 legal action necessary to collect such claim, and the employer or TNC shall be required to pay  
1025 the costs and such reasonable attorney's fees as may be allowed by the court. The attorney  
1026 general shall not be required to pay a filing fee in connection with any such action.

1027           In any action or administrative proceeding by an employee or TND or the commissioner  
1028 instituted upon such a wage claim in which the employee or TND prevails and the commissioner  
1029 thereafter in possession of the resulting award is unable after a reasonable search to locate the  
1030 employee or TND or to identify and locate the employee's or TND's successor in interest, the  
1031 commissioner shall, upon expiration of one year from the date of said award, deposit the funds

1032 from any such award, less costs and reasonable attorney's fees where applicable, in the General  
1033 Fund.

1034 Section 15. Chapter 149 of the General Laws is hereby amended by striking out Section  
1035 148C and inserting in place thereof the following section:-

1036 Section 148C: Earned sick time.

1037 Section 148C. (a) As used in this section and section 148D, the following words, unless  
1038 the context clearly requires otherwise, shall have the following meanings:—

1039 “Child”, a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a  
1040 person who has assumed the responsibilities of parenthood.

1041 “Earned paid sick time”, the time off from work that is provided by an employer to an  
1042 employee as computed under subsection (d) that can be used for the purposes described in  
1043 subsection (c) and is compensated at the same hourly rate as the employee earns from the  
1044 employee's employment at the time the employee uses the paid sick time; provided, however,  
1045 that this hourly rate shall not be less than the effective minimum wage under section 1 of chapter  
1046 151.

1047 “Earned sick time”, the time off from work that is provided by an employer to an  
1048 employee, whether paid or unpaid, as computed under subsection (d) that can be used for the  
1049 purposes described in subsection (c).

1050 “Employee”, any person who performs services for an employer for wage, remuneration,  
1051 or other compensation, except that employees employed by cities and towns shall only be

1052 considered Employees for purposes of this law if this law is accepted by vote or by appropriation  
1053 as provided in Article CXV of the Amendments to the Constitution of the Commonwealth.

1054 “Employer”, any individual, corporation, partnership or other private or public entity,  
1055 including any agent thereof, who engages the services of an employee for wages, remuneration  
1056 or other compensation, except the United States government shall not be considered an Employer  
1057 and cities and towns shall only be considered Employers for the purposes of this law if this law is  
1058 accepted by vote or by appropriation as provided in Article CXV of the Amendments to the  
1059 Constitution of the Commonwealth.

1060 “Health care provider”, the meaning given this term by the Family and Medical Leave  
1061 Act of 1993, 29 U.S.C. sections 2601 to 2654, inclusive, as it may be amended and regulations  
1062 promulgated thereunder.

1063 “Parent”, a biological, adoptive, foster or step-parent of an employee or of an employee's  
1064 spouse; or other person who assumed the responsibilities of parenthood when the employee or  
1065 employee's spouse was a child.

1066 “Spouse”, the meaning given this term by the marriage laws of the commonwealth.

1067 “Termination,” the meaning shall include any termination of services of a transportation  
1068 network worker by a transportation network company from an application or platform, including  
1069 suspension, refusal to contract, termination of contract, and deactivation.

1070 “Transportation network company” or “TNC,” the meaning as described in § 1 of  
1071 Chapter 159A1/2 of the General Laws.

1072 “Transportation network driver” or “TND,” the meaning as described in § 1 of Chapter  
1073 159A1/2 of the General Laws.

1074 (b) All employees or TNDs who work in the commonwealth who must be absent from  
1075 work for the reasons set forth in subsection (c) shall be entitled to earn and use not less than the  
1076 hours of earned sick time provided in subsection (d).

1077 (c) Earned sick time shall be provided by an employer or TNC for an employee or TND  
1078 to:

1079 (1) care for the employee's or TND’s child, spouse, parent, or parent of a spouse, who is  
1080 suffering from a physical or mental illness, injury, or medical condition that requires home care,  
1081 professional medical diagnosis or care, or preventative medical care; or

1082 (2) care for the employee's or TND’s own physical or mental illness, injury, or medical  
1083 condition that requires home care, professional medical diagnosis or care, or preventative  
1084 medical care; or

1085 (3) attend the employee's or TND’s routine medical appointment or a routine medical  
1086 appointment for the employee's or TND’s child, spouse, parent, or parent of spouse; or

1087 (4) address the psychological, physical or legal effects of domestic violence as defined in  
1088 subsection (g.5) of section 1 of chapter 151A, except that the definition of employee and TND in  
1089 subsection (a) will govern for purposes of this section.

1090 (d)(1) An employer or TNC shall provide a minimum of one hour of earned sick time for  
1091 every thirty hours worked by an employee, provided, however, that TNDs shall accrue earned  
1092 sick time at the rate established by the Director of the Division of Utilities under subsection

1093 (3)(h)(iii) of Chapter 159A ½ of the General Laws. Employees and TNDs shall begin accruing  
1094 earned sick time commencing with the date of hire of the employee, the date on which the TNC  
1095 certifies the TND pursuant to section 4 of Chapter 159A1/2 of the General Laws, or the date this  
1096 law becomes effective, whichever is later, but employees shall not be entitled to use accrued  
1097 earned sick time until the 90th calendar day following commencement of their employment and  
1098 TNDs shall not be entitled to use accrued earned sick time until the 90th calendar day following  
1099 the date such TND was certified by the TNC . On and after this 90 day period, employees and  
1100 TNDs may use earned sick time as it accrues.

1101 (2) Nothing in this chapter shall be construed to discourage or prohibit an employer or  
1102 TNC from allowing the accrual of earned sick time at a faster rate, or the use of earned sick time  
1103 at an earlier date, than this section requires.

1104 (3) Employees and TNDs who are exempt from overtime requirements under 29 U.S.C.  
1105 section 213(a)(1) of the Federal Fair Labor Standards Act shall be assumed to work 40 hours in  
1106 each work week for purposes of earned sick time accrual unless their normal work week is less  
1107 than 40 hours, in which case earned sick time shall accrue based on that normal work week.

1108 (4) All employees employed by an employer or of eleven or more employees and all  
1109 TNDs shall be entitled to earn and use up to 40 hours of earned paid sick time from that  
1110 employer or a TNC as provided in subsection (d) in a calendar year. In determining the number  
1111 of employees who are employed by an employer for compensation, all employees performing  
1112 work for compensation on a full-time, part-time or temporary basis shall be counted.

1113 (5) Notwithstanding section 17 of chapter 15D, sections 70–75 of chapter 118E, or any  
1114 other special or general law to the contrary, the PCA Quality Home Care Workforce Council

1115 shall be deemed the Employer of all Personal Care Attendants, as defined in section 70 of  
1116 chapter 118E, for purposes of subsection (d)(4) of this section, the Department of Medical  
1117 Assistance shall be deemed the Employer of said Personal Care Attendants for all other purposes  
1118 under this section, and the Department of Early Education and Care shall be deemed the  
1119 Employer of all Family Child Care Providers, as defined in section 17(a) of chapter 15D, for  
1120 purposes of this section.

1121 (6) All employees not entitled to earned paid sick time from an employer pursuant to  
1122 subsection (d)(4)–(5) shall be entitled to earn and use up to 40 hours of earned unpaid sick time  
1123 from that employer as provided in subsection (d) in a calendar year.

1124 (7) Earned sick time shall be used in the smaller of hourly increments or the smallest  
1125 increment that the employer's or TNC's payroll system or system that is otherwise used to make  
1126 payments to TNDs uses to account for absences or use of other time. Employees and TNDs may  
1127 carry over up to 40 hours of unused earned sick time to the next calendar year, but are not  
1128 entitled to use more than 40 hours in one calendar year. Employers and TNCs shall not be  
1129 required to pay out unused earned sick time upon the separation of the employee or TND from  
1130 the employer or TND.

1131 (e) If an employee is absent from work for any reason listed in subsection (c) and, by  
1132 mutual consent of the employer and the employee, the employee or works an equivalent number  
1133 of additional hours or shifts during the same or the next pay period as the hours or shifts not  
1134 worked due to reasons listed in subsection (c), an employee shall not be required to use accrued  
1135 earned sick time for the employee's absence during that time period and the employer shall not  
1136 be required to pay for the time the employee was so absent. An employer shall not require such

1137 employee to work additional hours to make up for the hours during which the employee was so  
1138 absent or require that the employee search for or find a replacement employee to cover the hours  
1139 during which the employee is utilizing earned sick time. This subsection shall not apply to  
1140 TNDs.

1141 (f) Subject to the provisions of subsection (n), an employer or TNC may require  
1142 certification when an earned sick time period covers more than 24 consecutively scheduled work  
1143 hours. Any reasonable documentation signed by a health care provider indicating the need for  
1144 earned sick time taken shall be deemed acceptable certification for absences under subsection  
1145 (c)(1), (2) and (3). Documentation deemed acceptable under subsection (g.5) of section 1 of  
1146 chapter 151A shall be deemed acceptable documentation for absences under subsection (c)(4).  
1147 An employer may not require that the documentation explain the nature of the illness or the  
1148 details of the domestic violence. The employer or TNC shall not delay the taking of earned sick  
1149 time or delay pay for the period in which earned sick time was taken for employees or TNDs  
1150 entitled to pay under subsection (d), on the basis that the employer or TNC has not yet received  
1151 the certification. Nothing in this section shall be construed to require an employee or TND to  
1152 provide as certification any information from a health care provider that would be in violation of  
1153 section 1177 of the Social Security Act, 42 U.S.C. 1320d-6, or the regulations promulgated  
1154 under section 264(c) of the Health Insurance Portability and Accountability Act of 1996, 42  
1155 U.S.C. 1320d-2 note.

1156 (g) When the use of earned sick time is foreseeable, the employee or TND shall make a  
1157 good faith effort to provide notice of this need to the employer or TNC in advance of the use of  
1158 the earned sick time.



1159 (h) It shall be unlawful for any employer or TNC to interfere with, restrain, or deny the  
1160 exercise of, or the attempt to exercise, any right provided under or in connection with this  
1161 section, including, but not limited to, by using the taking of earned sick time under this section as  
1162 a negative factor in any employment action such as evaluation, promotion, disciplinary action or  
1163 termination, or otherwise subjecting an employee to discipline for the use of earned sick time  
1164 under this section.

1165 (i) It shall be unlawful for any employer or TNC to take any adverse action against an  
1166 employee or TND because the employee or TND opposes practices which the employee or TND  
1167 believes to be in violation of this section, or because the employee or TND supports the exercise  
1168 of rights of another employee or TND under this section. Exercising rights under this section  
1169 shall include but not be limited to filing an action, or instituting or causing to be instituted any  
1170 proceeding, under or related to this section; providing or intending to provide any information in  
1171 connection with any inquiry or proceeding relating to any right provided under this section; or  
1172 testifying or intending to testify in any inquiry or proceeding relating to any right provided under  
1173 this section.

1174 (j) Nothing in this section shall be construed to discourage employers or TNCs from  
1175 adopting or retaining earned sick time policies more generous than policies that comply with the  
1176 requirements of this section and nothing in this section shall be construed to diminish or impair  
1177 the obligation of an employer or TNC to comply with any contract, collective bargaining  
1178 agreement, or any employment benefit program or plan in effect on the effective date of this  
1179 section that provides to employees or TNDs greater earned sick time rights than the rights  
1180 established under this section.

1181 (k) Employers or TNCs required to provide earned paid sick time who provide their  
1182 employees or TNDs paid time off under a paid time off, vacation or other paid leave policy who  
1183 make available an amount of paid time off sufficient to meet the accrual requirements of this  
1184 section that may be used for the same purposes and under the same conditions as earned paid  
1185 sick time under this section are not required by this section to provide additional earned paid sick  
1186 time.

1187 (l) The attorney general shall enforce this section, and may obtain injunctive or  
1188 declaratory relief for this purpose. Violation of this section shall be subject to paragraphs (1), (2),  
1189 (4), (6) and (7) of subsection (b) of section 27C and to section 150.

1190 (m) The attorney general shall prescribe by regulation the employer's or TNC's  
1191 obligation to make, keep, and preserve records pertaining to this section consistent with the  
1192 requirements of section 15 of chapter 151.

1193 (n) The attorney general may adopt rules and regulations necessary to carry out the  
1194 purpose and provisions of this section, including the manner in which an employee or TND who  
1195 does not have a health care provider shall provide certification, and the manner in which  
1196 employer size shall be determined for purposes of subsection (d)(4).

1197 (o) Notice of this section shall be prepared by the attorney general, in English and in  
1198 other languages required under clause (iii) of subsection (d) of section 62A of chapter 151A.  
1199 Employers or TNCs shall post this notice in a conspicuous location accessible to employees or  
1200 TNDs in every establishment where employees with rights under this section work, and shall  
1201 provide a copy to their employees or TNDs. This notice shall include the following information:

1202 (1) information describing the rights to earned sick time under this section;

1203 (2) information about the notices, documentation and any other requirements placed on  
1204 employees in order to exercise their rights to earned sick time;

1205 (3) information that describes the protections that an employee or TND has in exercising  
1206 rights under this section;

1207 (4) the name, address, phone number, and website of the attorney general's office where  
1208 questions about the rights and responsibilities under this section can be answered; and

1209 (5) information about filing an action under this section.

1210 Section 16. Chapter 149 of the General Laws is hereby amended by striking out section  
1211 150 and inserting in place thereof the following section:-

1212 Section 150: Complaint for violation of certain sections; defenses; payment after  
1213 complaint; assignments; loan of wages to employer; civil action.

1214 Section 150. The attorney general may make complaint or seek indictment against any  
1215 person for a violation of section 148. On the trial no defence for failure to pay as required, other  
1216 than the attachment of such wages by trustee process or a valid assignment thereof or a valid set-  
1217 off against the same, or the absence of the employee from his regular place of labor at the time of  
1218 payment, or an actual tender to such employee at the time of payment of the wages so earned by  
1219 him, shall be valid. The defendant shall not set up as a defence a payment of wages after the  
1220 bringing of the complaint. An assignment of future wages payable weekly under section one  
1221 hundred and forty-eight shall not be valid if made to the person from whom such wages are to  
1222 become due or to any person on his behalf, or if made or procured to be made to another person  
1223 for the purpose of relieving the employer from the obligation to pay weekly. A loan made by an

1224 employee to his employer of wages which are payable weekly under section one hundred and  
1225 forty-eight, whether made directly to the employer or to another person or persons on his behalf,  
1226 shall not be valid as a defense on the trial of a complaint for failure to pay such wages weekly,  
1227 unless such loan shall have been made with the approval of the attorney general.

1228           An employee claiming to be aggrieved by a violation of sections 33E, 52E, 148, 148A,  
1229 148B, 148C, 150C, 152, 152A, 159C or 190 or section 19, or section 7b of chapter 151 may, 90  
1230 days after the filing of a complaint with the attorney general, or sooner if the attorney general  
1231 assents in writing, and within 3 years after the violation, institute and prosecute in his own name  
1232 and on his own behalf, or for himself and for others similarly situated, a civil action for  
1233 injunctive relief, for any damages incurred, and for any lost wages and other benefits; provided,  
1234 however, that the 3 year limitation period shall be tolled from the date that the employee or a  
1235 similarly situated employee files a complaint with the attorney general alleging a violation of any  
1236 of these sections until the date that the attorney general issues a letter authorizing a private right  
1237 of action or the date that an enforcement action by the attorney general becomes final. An  
1238 employee so aggrieved who prevails in such an action shall be awarded treble damages, as  
1239 liquidated damages, for any lost wages and other benefits and shall also be awarded the costs of  
1240 the litigation and reasonable attorneys' fees.

1241           SECTION 3. Coverage for Network Driver Injury and Establishment of the  
1242 Transportation Network Driver Injury Compensation Fund.

1243           Section 1. Subsection (4) of section 1 of Chapter 152 of the General Laws, as appearing  
1244 in the 2020 Official Edition, is hereby amended by inserting after the seventh paragraph the  
1245 following paragraph:-

1246 Notwithstanding any other provision of this chapter, and for purposes of this chapter  
1247 only, a covered driver, as defined in section 1 of chapter 152A, shall, on and after the fund  
1248 liability date, as defined in section 1 of chapter 152A, be an employee of the Transportation  
1249 Driver Injury Compensation Fund, Inc. created under Chapter 152A.

1250 Section 2. Subsection (5) of section 1 of Chapter 152 of the General Laws, as appearing  
1251 in the 2020 Official Edition, is hereby amended by inserting after the second paragraph the  
1252 following paragraph:-

1253 Notwithstanding any other provision of this chapter, and for purposes of this chapter  
1254 only, the employer of a covered driver, as defined in section 1 of chapter 152A, shall, on and  
1255 after the fund liability date, established in chapter 152A, be the Transportation Driver Injury  
1256 Compensation Fund, Inc. created under chapter 152A.

1257 Section 3. Section 24 of Chapter 152 of the General Laws, as appearing in the 2020  
1258 Official Edition, is hereby amended by inserting after the first paragraph the following  
1259 paragraph:-

1260 The liability under this chapter of the Transportation Driver Injury Compensation Fund,  
1261 Inc. shall be limited to: (i) securing the payment of workers' compensation in accordance with  
1262 chapter 152A to covered drivers, as defined in section 1 of chapter 152A, whose injury arose out  
1263 of and in the course of providing transportation network services as defined in chapter 159A1/2,  
1264 for or facilitated by a fund member as defined in section 1 of chapter 152A, and (ii) any statutory  
1265 penalty resulting from the failure to secure such payment. The liability under this chapter of a  
1266 fund member, as defined in section 1 of chapter 152A, shall be limited to remaining a registered  
1267 member in good standing of the fund and any statutory penalty, including loss of immunity

1268 provided by this section, resulting from the failure to become or remain a registered member in  
1269 good standing of the fund.

1270 Section 4. Section 25A of Chapter 152 of the General Laws, as appearing in the 2020  
1271 Official Edition, is hereby amended by adding the following subsection:-

1272 A transportation network company's requirement under this chapter regarding the  
1273 securing and provision of workers' compensation benefits for any covered driver, as those terms  
1274 are defined in section 1 of chapter 152A, are satisfied in full by compliance with the  
1275 requirements imposed upon the for-hire company or transportation network company under  
1276 chapter 152A. Insurance coverage directly procured by any transportation network company for  
1277 the purpose of satisfying the requirements of this chapter with respect to employees of the  
1278 transportation network company shall not include coverage of any covered driver, to the extent  
1279 that the covered driver is provided coverage secured by the Transportation Driver Injury  
1280 Compensation Fund, Inc. under chapter 152A. Coverage secured by the fund under chapter 152A  
1281 shall be considered primary.

1282 Section 5. Section 43 of Chapter 152 of the General Laws, as appearing in the 2020  
1283 Official Edition, is hereby amended by inserting after the first paragraph the following  
1284 paragraph:-

1285 Whenever notice is required to be given to an employer under this chapter, such  
1286 requirement shall be satisfied, with respect to an accident or injury to a covered driver, as defined  
1287 in section 1 of chapter 152A, occurring on or after the fund liability date, as defined in section 1  
1288 of chapter 152A, by giving such notice to the Transportation Driver Injury Compensation Fund,  
1289 Inc., established under chapter 152A.

1290 Section 6. Chapter 152A of the General Laws is hereby enacted with the following  
1291 provisions:-

1292 Section 1. Definitions

1293 1. "Transportation network company" or "TNC" means transportation network  
1294 driver as described in § 1 of Chapter 159A1/2 of the General Laws.

1295 2. "Transportation network driver" or "TND" means transportation network  
1296 company as described in § 1 of Chapter 159A1/2 of the General Laws.

1297 3. "Covered Driver," all transportation network drivers engaged in and authorized  
1298 to provide, transportation network services as defined in 159A1/2, in the commonwealth.

1299 4. "Corporations Division" means the Corporations Division under the Secretary  
1300 of the Commonwealth.

1301 7. "Fund" means the Transportation Network Driver Injury Compensation Fund,  
1302 Inc.

1303 8. "Fund liability date" means the earlier of: (a) the date as of which the  
1304 Department of Industrial Accidents first approves the fund's application to self-insure, or (b) the  
1305 date on which coverage commences under the initial insurance policy purchased by the fund  
1306 pursuant to subdivision three of section one hundred sixty-ii of this article.

1307 9. "Secretary" means the secretary of state.

1308 Section 2. Creation of the Transportation Network Driver Injury Compensation  
1309 Fund.

1310           The Transportation Network Driver Injury Compensation Fund, Inc. is hereby  
1311 created as a not-for-profit corporation. To the extent that provisions of the not-for-profit  
1312 corporation law do not conflict with the Articles of Organization and Bylaws established  
1313 pursuant to this article, the not-for-profit corporation law shall apply to the fund. If an applicable  
1314 provision of MGL c.151A, or of the fund's Articles of Organization and Bylaws, relates to a  
1315 matter embraced in a provision of the not-for-profit corporation law but is not in conflict  
1316 therewith, both provisions shall apply. The Fund shall perform its functions in accordance with  
1317 its Articles and Bylaws established and approved pursuant to this Chapter and shall exercise its  
1318 powers through a Board of Directors established pursuant to this Chapter.

1319           The fund is established for the purpose of providing compensation to covered  
1320 drivers under this chapter who are injured while engaged in transportation network services as  
1321 defined in this chapter 159A1/2. The Fund, as employer, will comply with all requirements and  
1322 obligations imposed on employers by M.G.L. c 152, except as expressly exempted or modified  
1323 by this chapter. Covered drivers as defined in this chapter, shall enjoy all the rights and benefits  
1324 provided by M.G.L. c. 152, except as expressly proscribed or modified by this chapter.

1325           Section 3. Management of the Fund; Board of Directors.

1326           1. Within sixty days of the effective date of this Act, there shall be appointed by  
1327 the Governor, a Board of Directors of the fund, consisting of five directors. Two directors will be  
1328 nominated by labor organizations operating within the Commonwealth of Massachusetts and two  
1329 directors will be nominated by TNCs doing business in the Commonwealth of Massachusetts.  
1330 One director will be appointed without nomination of the Governor. The initial terms of  
1331 members shall be staggered. Two directors appointed by the Governor will serve for an initial



1332 term of three years and two for an initial term of two years from the effective date of this article.

1333 The subsequent terms of all directors shall be three years.

1334           2. The directors shall elect annually from among their number a chair and a vice  
1335 chair who shall act as chair in the chair's absence.

1336           3. For their attendance at meetings, the directors of the fund shall be entitled to  
1337 compensation, as authorized by the directors, in an amount not to exceed two hundred dollars per  
1338 meeting per director, and to reimbursement of their actual and necessary expenses.

1339           4. Directors of the fund, except as otherwise provided by law, may engage in  
1340 private or public employment or in a profession or business.

1341           5. (a) All of the directors shall have equal voting rights and three or more  
1342 directors shall constitute a quorum. The affirmative vote of three directors shall be necessary for  
1343 the transaction of any business or the exercise of any power or function of the fund.

1344           (b) The fund may delegate to one or more of its directors, officers, agents or  
1345 employees such powers and duties as it may deem proper.

1346           (c) A vacancy occurring in a director position shall be filled in the same manner  
1347 as the initial appointment to that position, provided however that no individual may serve as  
1348 director for more than three successive terms.

1349           6. The Board shall be held to customary fiduciary duties, including the core duties  
1350 of care and loyalty, which shall require the Board members to act in good faith and for the Benefit  
1351 of the fund and not their own personal or business interests. Violating such duties shall be  
1352 ground for immediate removal from the Board by a majority vote of the Board.

1353 Section 4. Articles of Incorporation.

1354 1. Within ninety days of the appointment of the full Board of Directors, the fund  
1355 shall file with the Secretary of State, Corporations Division, its Articles of Incorporation and  
1356 Bylaws, which shall be designed to assure the fair, reasonable and equitable administration of the  
1357 fund. The Articles and Bylaws and any subsequent amendments thereto shall become effective  
1358 upon being filed with the Corporations Division.

1359 2. The Articles and Bylaws shall, in addition to the requirements enumerated  
1360 elsewhere in this article:

1361 (a) establish procedures for collecting and managing the assets of the fund;

1362 (b) establish regular places and times for meetings of the fund's board of  
1363 directors;

1364 (c) establish the procedure by which the fund shall determine whether to provide  
1365 the benefits due pursuant to this article by self-insuring or by purchasing insurance;

1366 (d) establish accounting and record-keeping procedures for all financial  
1367 transactions of the fund, its agents and the board of directors;

1368 (e) establish a procedure for determining and collecting the appropriate amount of  
1369 surcharges and assessments under this article;

1370 (f) set forth the procedures by which the fund may exercise the premium audit  
1371 rights granted to it under this article;

1372 (g) establish procedures to ensure prompt and accurate notification to the fund by  
1373 its members of all accidents and injuries to TNCs, and provide for full reimbursement of the fund  
1374 by any TNC whose failure to provide such notification results in the imposition of a penalty on  
1375 the fund by the board; and

1376 (h) contain such additional provisions as the board of the fund may deem  
1377 necessary or proper for the execution of the powers and duties of the fund.

1378 Section 5. Membership in the Fund; Registration with the Division.

1379 1. The membership of the fund shall be composed of all transportation network  
1380 companies operating in the Commonwealth. Each TNC shall be required, as a condition of  
1381 doing business within the Commonwealth, to pay the Department of Public Utilities a two  
1382 hundred dollar annual fee for the purpose of registering as a member of the fund and receiving a  
1383 certificate of registration. Such sums shall be used by the Department of Public Utilities for the  
1384 administration of this Chapter. The initial registration fee shall be due no later than ninety days  
1385 after the effective date of this article. The Department of Public Utilities shall provide the fund  
1386 with an updated list of registrants on a monthly basis.

1387 2. Within sixty days of the appointment of the full board, the board of the fund shall, on  
1388 the basis of information from trade papers and other sources, identify the TNCs subject to this  
1389 article and, on a regular and ongoing basis, confirm that all such entities have registered in  
1390 accordance with subdivision one of this section.

1391 3. The fund shall, within one hundred fifty days of the appointment of the full board,  
1392 provide to its members a copy of the Articles Incorporation and Bylaws and shall inform its  
1393 members of their rights and duties pursuant to this article.

1394 Section 6. Securing compensation.

1395 1. Within one hundred fifty days of the effective date of the Articles of Incorporation and  
1396 Bylaws, the fund shall secure the payment of workers' compensation to all covered drivers  
1397 entitled thereto pursuant to this chapter by either: (a) self-insuring or (b) purchasing workers'  
1398 compensation insurance covering, on a blanket basis, for all covered drivers who are the fund's  
1399 employees.

1400 2. If the fund initially seeks to self-insure, it shall in accordance with all requirements and  
1401 obligations pursuant to M.G.L c. 152.

1402 3. If the fund chooses to secure the payment of workers' compensation pursuant to the  
1403 workers' compensation law by purchasing an insurance policy from a licensed insurer, it shall  
1404 file in accordance with all requirements and obligations pursuant to M.G.L c. 152.

1405 4. No provision of this article shall be construed to alter or affect the liability under the  
1406 workers' compensation law of any TNC with respect to covered drivers prior to the fund liability  
1407 date.

1408 Section 7. Assessment of Fund members; customer surcharges; premium audit powers of  
1409 the Fund, the board and the Fund's insurer.

1410 1. To pay (a) the costs of the insurance purchased or (b) the benefits due under the  
1411 workers' compensation law in the event the fund self-insures, and to pay (c) its expenses in  
1412 carrying out its powers and duties under this article and (d) its liabilities, if any, pursuant to  
1413 section fourteen-a of the workers' compensation law, the fund shall ascertain by reasonable  
1414 estimate the total funding necessary to carry on its operations.

1415           2. Based upon its estimation of operating costs, the fund shall establish a proposed  
1416 amount per on-trip mile surcharge. The proposed surcharge shall become effective thirty days  
1417 from the effective date of the Articles of Incorporation and Bylaws. Each member of the fund  
1418 shall be liable for payment to the fund of an amount equal to the product of (i) the amount per  
1419 on-trip mile due pursuant to this article and (ii) the number of on-trip miles by the covered  
1420 drivers providing services through its platform, as provided in this subdivision.

1421           3. Each TNC shall submit to the fund with its monthly payment a detailed accounting of  
1422 the on-trip miles services during the previous month. The first such payment and accounting  
1423 shall be due on the fifteenth day of the month following the imposition of the surcharge.

1424           4. The Department of Public Utilities shall not issue, continue or renew any permit for the  
1425 operation of any TNC unless such network company, as a condition of maintaining its permit,  
1426 complies with MGL c. 152A section 8, paragraph 3.

1427           5. Should the fund determine that the surcharge amounts that have been paid to it are  
1428 inadequate to meet its obligations under this article, it shall determine the surcharge rate required  
1429 to eliminate such deficiency and shall notify the fund members of the revised surcharge rate,  
1430 along with sufficient documentation detailing its calculations of projected shortfall and estimated  
1431 funds under the revised surcharge. Commencing thirty days after such notice, the members of  
1432 the fund shall charge the revised surcharge rate and shall pay to the fund the total amount of  
1433 surcharges accordingly.

1434           6. The fund shall have the power directly or through its agent to conduct premium audits  
1435 of its members solely to verify their compliance with the on-trip mileage reporting requirements.  
1436 The fund or its agent shall be afforded convenient access at all reasonable hours to all books,

1437 records and other documents of its members that may be relevant to such premium audits.  
1438 Compliance with this section shall not constitute waiver of any legal privilege, confidentiality, or  
1439 trade secret protection.

1440 7. For the purposes of conducting premium audits, an insurer providing coverage to the  
1441 fund pursuant to this article may treat the members of the fund as policyholders.

1442 Section 8. Financial oversight of the Fund.

1443 No later than the first day of May of each year, the fund shall submit to the Massachusetts  
1444 Attorney General Office's Non-Profit Organizations/Public Charities Division, certified financial  
1445 statements prepared in accordance with generally accepted accounting principles by a certified  
1446 public accountant. The members of the fund shall be required on and after January first of each  
1447 year to afford the certified public accountant convenient access at all reasonable hours to all  
1448 books, records and other documents, including but not limited to invoices and vouchers,  
1449 necessary or useful in the preparation of such statements and in the verification of the monthly  
1450 statements submitted to the fund. Compliance with this section shall not constitute waiver of any  
1451 legal privilege, confidentiality, or trade secret protection. The requirements in this section shall  
1452 commence on the first May after the effective date of the plan of operations.

1453 Section 9. Liability insurance.

1454 The fund shall purchase such insurance as is necessary to protect the fund and any  
1455 director, officer, agent or other representative from liability for their administration of the fund,  
1456 and shall, to the extent permitted by law, indemnify such directors, officers, agents or other  
1457 representatives and hold them harmless from liability for their administration of the fund.

1458 Section 10. Regulations.

1459 The Department of Public Utilities shall adopt regulations implementing the provisions of  
1460 this Chapter.

1461 Section 11. Violations; penalties; appeals.

1462 1. (a) If a fund director believes a violation of this article by a fund member may have  
1463 occurred, the director, shall upon notice to the fund member, notify the Department of Public  
1464 Utilities to hold a hearing to determine whether such violation occurred.

1465 (b) If the fund believes that a TNC has failed to pay the fund the assessments due  
1466 pursuant to this Chapter, it shall make a referral to the Department of Public Utilities to hold a  
1467 hearing to determine whether such violation occurred.

1468 2. Except as otherwise provided in this section, a fund member that is found, after a  
1469 hearing held pursuant to this section, to have violated a provision of this Chapter, or a rule  
1470 promulgated in accordance with this Chapter, the fund member shall be liable for a fine in an  
1471 amount not to exceed ten thousand dollars per violation. Notwithstanding the foregoing, a fund  
1472 member that fails to submit to the fund the required surcharges shall be subject, in addition to  
1473 payment to the fund of the amount overdue plus interest on such amount as herein provided, to a  
1474 penalty, at the discretion of the Department of Public Utilities, of (a) up to five thousand dollars  
1475 for each twenty days the payment is overdue, or (b) revocation of its membership in the fund, or  
1476 (c) both a monetary penalty and revocation of its membership in the fund. Any monetary penalty  
1477 imposed pursuant to this subdivision shall be retained by the Department of Public Utilities and  
1478 be used to defray the costs of administering this article.

1479 SECTION 4. Unemployment Insurance.

1480 Section 1. Section 1 of Chapter 151A of the General Laws, as appearing in the 2022  
1481 Official Edition, is hereby amended by inserting the following subsections (ee), (ff), (gg), and  
1482 (hh):-

1483 (ee) The term “transportation network company” or “TNC,” transportation network  
1484 company as described in § 1 of Chapter 159A1/2 of the General Laws.

1485 (ff) The term “transportation network driver” or “TND,” transportation network driver as  
1486 described in § 1 of Chapter 159A1/2 of the General Laws.

1487 (gg) The terms “discharge” and “terminate” shall include any termination of services of a  
1488 transportation network worker by a transportation network company from an application or  
1489 platform, including suspension, refusal to contract, termination of contract, and deactivation.

1490 (hh) “The terms “hire,” “employ” or “employment” shall include the activation of a  
1491 transportation network driver by a transportation network company to an application or platform.

1492 Section 2. Section 2 of Chapter 151A of the General Laws is hereby amended by  
1493 inserting at the end of the fourth paragraph, after the word “section.,” the following words:-

1494 Transportation network services as defined in M.G.L.A. 159A 1/2 § 1 shall be deemed  
1495 employment subject to this chapter irrespective of any showing of (a), (b) and (c), above.

1496 Section 3. Section 4A of Chapter 151A of the General Laws is hereby amended by  
1497 inserting at the end of the section new subsection (g):-

1498 (g) Performing transportation network services as defined in 159A 1/2 § 1.



1499 Section 4. Section 14 of Chapter 151A of the General Laws is hereby amended by  
1500 inserting at the end of subsection (i) a new subparagraph (2):-

1501 (2) The contribution rate of each TNC shall be increased by an amount equal to the  
1502 difference between the rate of contribution paid by employing units pursuant to the federal  
1503 Unemployment Tax Act after applying any credit available to those employing units pursuant to  
1504 section 3302 of title 23 of the internal revenue code, and the rate of contribution required to be  
1505 made to the Unemployment Compensation Fund which is specified for employers in this  
1506 subsection (i).

1507 SECTION 5. Prohibiting discrimination against transportation network drivers.

1508 Section 1. Section 1 of Chapter 151B of the General Laws is hereby amended by  
1509 inserting at the end thereof the following subsections:-

1510 24. The term “transportation network company” or “TNC” shall mean transportation  
1511 network company as described in § 1 of Chapter 159A1/2 of the General Laws.

1512 25. The term “transportation network driver” or “TND” shall mean transportation  
1513 network driver as described in § 1 of Chapter 159A1/2 of the General Laws.

1514 26. The terms “discharge” and “terminate” shall include any termination of services of a  
1515 transportation network worker by a transportation network company from an application or  
1516 platform, including suspension, refusal to contract, termination of contract, and deactivation.

1517 27. “The terms “hire,” “employ” or “employment” shall include the activation of a  
1518 transportation network driver by a transportation network company to an application or platform.

1519 Section 2. Chapter 151B of the General Laws is hereby amended by striking out Section  
1520 3A and inserting in place thereof the following Section:-

1521 Section 3A. (a) All employers, TNCs, employment agencies and labor organizations shall  
1522 promote a workplace free of sexual harassment.

1523 (b) Every employer and TNCs shall:

1524 (1) adopt a policy against sexual harassment which shall include:

1525 (i) a statement that sexual harassment in the workplace is unlawful;

1526 (ii) a statement that it is unlawful to retaliate against an employee or TND for filing a  
1527 complaint of sexual harassment or for cooperating in an investigation of a complaint for sexual  
1528 harassment;

1529 (iii) a description and examples of sexual harassment;

1530 (iv) a statement of the range of consequences for employees or TNDs who are found to  
1531 have committed sexual harassment;

1532 (v) a description of the process for filing internal complaints about sexual harassment and  
1533 the work addresses and telephone numbers of the person or persons to whom complaints should  
1534 be made; and

1535 (vi) the identity of the appropriate state and federal employment discrimination  
1536 enforcement agencies, and directions as to how to contact such agencies.

1537 (2) provide annually to all employees or TNDs an individual written copy of the  
1538 employer's or TNC's policy against sexual harassment; provided, however, that a new employee  
1539 or TNC shall be provided such a copy at the time of his employment.

1540 (c) The commission shall prepare and provide to employers or TNCs subject to this  
1541 section a model policy and poster consistent with federal and state statutes and regulations,  
1542 which may be used by employers or TNCs for the purposes of this section.

1543 (d) An employer's or TNC's failure to provide the information required to be provided by  
1544 this section shall not, in and of itself, result in the liability of said employer or TNC to any  
1545 current or former employee or TNC or applicant in any action alleging sexual harassment. An  
1546 employer's or TNC's compliance with the notice requirements of this section shall not, in and of  
1547 itself, protect the employer or TNC from liability for sexual harassment of any current or former  
1548 employee or TND or applicant.

1549 (e) Employers, TNCs and labor organizations are encouraged to conduct an education  
1550 and training program for new employees, TNDs and members, within one year of  
1551 commencement of employment or membership, which includes at a minimum the information  
1552 set forth in this section. Employers and TNCs are encouraged to conduct additional training for  
1553 new supervisory and managerial employees and members within one year of commencement of  
1554 employment or membership, which shall include at a minimum the information set forth in  
1555 subsection (b), the specific responsibilities of supervisory and managerial employees and the  
1556 methods that such employees should take to ensure immediate and appropriate corrective action  
1557 in addressing sexual harassment complaints. Employers, TNCs, labor organizations and  
1558 appropriate state agencies are encouraged to cooperate in making such training available.

1559 Section 3. Section 4, subsection 1 of Chapter 151B of the General Laws is hereby  
1560 amended by inserting after “For an employer” in the first sentence the following words:- “or  
1561 TNC”

1562 Section 4. Section 4 of Chapter 151B of the General Laws is hereby further amended by  
1563 striking out subsection 1A and inserting in place thereof the following subsection:-

1564 1A. It shall be unlawful discriminatory practice for an employer or TNC to impose upon  
1565 an individual as a condition of obtaining or retaining employment any terms or conditions,  
1566 compliance with which would require such individual to violate, or forego the practice of, his  
1567 creed or religion as required by that creed or religion including but not limited to the observance  
1568 of any particular day or days or any portion thereof as a sabbath or holy day and the employer or  
1569 TNC shall make reasonable accommodation to the religious needs of such individual. No  
1570 individual who has given notice as hereinafter provided shall be required to remain at his place  
1571 of employment during any day or days or portion thereof that, as a requirement of his religion, he  
1572 observes as his sabbath or other holy day, including a reasonable time prior and subsequent  
1573 thereto for travel between his place of employment and his home, provided, however, that any  
1574 employee or TND intending to be absent from work when so required by his or her creed or  
1575 religion shall notify his or her employer or TNC not less than ten days in advance of each  
1576 absence, and that any such absence from work shall, wherever practicable in the judgment of the  
1577 employer, be made up by an equivalent amount of time at some other mutually convenient time.  
1578 Nothing under this subsection shall be deemed to require an employer or TNC to compensate an  
1579 employee for such absence. “Reasonable Accommodation”, as used in this subsection shall mean  
1580 such accommodation to an employee's or TND's or prospective employee's or TND's religious  
1581 observance or practice as shall not cause undue hardship in the conduct of the employer's or

1582 TNC’s business. The employee or TND shall have the burden of proof as to the required practice  
1583 of his creed or religion. As used in this subsection, the words “creed or religion” mean any  
1584 sincerely held religious beliefs, without regard to whether such beliefs are approved, espoused,  
1585 prescribed or required by an established church or other religious institution or organization.

1586 Undue hardship, as used herein, shall include the inability of an employer or TNC to  
1587 provide services which are required by and in compliance with all federal and state laws,  
1588 including regulations or tariffs promulgated or required by any regulatory agency having  
1589 jurisdiction over such services or where the health or safety of the public would be unduly  
1590 compromised by the absence of such employee or TND or employees or TNDs, or where the  
1591 employee's or TND’s presence is indispensable to the orderly transaction of business and his or  
1592 her work cannot be performed by another employee or TND of substantially similar  
1593 qualifications during the period of absence, or where the employee's or TND’s presence is  
1594 needed to alleviate an emergency situation. The employer or TNC shall have the burden of proof  
1595 to show undue hardship.

1596 Section 5. Section 4, subsection 1B of Chapter 151B of the General Laws is hereby  
1597 amended by inserting after “For an employer” in the first sentence the following words:- “or  
1598 TNC”

1599 Section 6. Section 4 of Chapter 151B of the General Laws is hereby further amended by  
1600 striking out subsection 1C and inserting in place thereof the following subsection:-

1601 1C. For the commonwealth or any of its political subdivisions, by itself or its agent,  
1602 because of the age of any individual, to refuse to hire or employ or to bar or discharge from

1603 employment such individual in compensation or in terms, conditions or privileges of  
1604 employment unless pursuant to any other general or special law.

1605 Section 7. Section 4, subsection 1D of Chapter 151B of the General Laws is hereby  
1606 amended by inserting after “For an employer” in the first sentence the following words:- “or  
1607 TNC”

1608 Section 8. Section 4 of Chapter 151B of the General Laws is hereby further amended by  
1609 striking out subsection 1E and inserting in place thereof the following subsection:-

1610 1E. (a) For an employer or TNC to deny a reasonable accommodation for an employee’s  
1611 or TND’s pregnancy or any condition related to the employee’s or TND’s pregnancy including,  
1612 but not limited to, lactation or the need to express breast milk for a nursing child if the employee  
1613 or TND requests such an accommodation; provided, however, that an employer or TNC may  
1614 deny such an accommodation if the employer or TNC can demonstrate that the accommodation  
1615 would impose an undue hardship on the employer’s or TNC’s program, enterprise or business. It  
1616 shall also be an unlawful practice under this subsection to:

1617 (i) take adverse action against an employee or TND who requests or uses a reasonable  
1618 accommodation in terms, conditions or privileges of employment including, but not limited to,  
1619 failing to reinstate the employee or TND to the original employment status or to an equivalent  
1620 position with equivalent pay and accumulated seniority, retirement, fringe benefits and other  
1621 applicable service credits when the need for a reasonable accommodation ceases;

1622 (ii) deny an employment opportunity to an employee if the denial is based on the need of  
1623 the employer or TNC to make a reasonable accommodation to the known conditions related to

1624 the employee's or TND's pregnancy including, but not limited to, lactation or the need to express  
1625 breast milk for a nursing child;

1626 (iii) require an employee or TND affected by pregnancy, or require said employee or  
1627 TND affected by a condition related to the pregnancy, including, but not limited to, lactation or  
1628 the need to express breast milk for a nursing child, to accept an accommodation that the  
1629 employee or TND chooses not to accept, if that accommodation is unnecessary to enable the  
1630 employee or TND to perform the essential functions of the job;

1631 (iv) require an employee or TND to take a leave if another reasonable accommodation  
1632 may be provided for the known conditions related to the employee's or TND's pregnancy,  
1633 including, but not limited to, lactation or the need to express breast milk for a nursing child,  
1634 without undue hardship on the employer's program, enterprise or business;

1635 (v) refuse to hire a person who is pregnant because of the pregnancy or because of a  
1636 condition related to the person's pregnancy, including, but not limited to, lactation or the need to  
1637 express breast milk for a nursing child; provided, however, that the person is capable of  
1638 performing the essential functions of the position with a reasonable accommodation and that  
1639 reasonable accommodation would not impose an undue hardship, demonstrated by the employer  
1640 or TNC, on the employer's or TNC's program, enterprise or business.

1641 (b) As used in this subsection, the following words shall have the following meanings  
1642 unless the context clearly requires otherwise:

1643 "Reasonable accommodation", may include, but shall not be limited to: (i) more frequent  
1644 or longer paid or unpaid breaks; (ii) time off to attend to a pregnancy complication or recover  
1645 from childbirth with or without pay; (iii) acquisition or modification of equipment or seating; (iv)

1646 temporary transfer to a less strenuous or hazardous position; (v) job restructuring; (vi) light duty;  
1647 (vii) private non-bathroom space for expressing breast milk; (viii) assistance with manual labor;  
1648 or (ix) a modified work schedule; provided, however, that an employer or TNC shall not be  
1649 required to discharge or transfer an employee or TND with more seniority or promote an  
1650 employee or TND who is not able to perform the essential functions of the job with or without a  
1651 reasonable accommodation.

1652 “Undue hardship”, an action requiring significant difficulty or expense; provided,  
1653 however, that the employer shall have the burden of proving undue hardship; provided further,  
1654 that in making a determination of undue hardship, the following factors shall be considered: (i)  
1655 the nature and cost of the needed accommodation; (ii) the overall financial resources of the  
1656 employer or TNC; (iii) the overall size of the business of the employer with respect to the  
1657 number of employees or TNDs and the number, type and location of its facilities; and (iv) the  
1658 effect on expenses and resources or any other impact of the accommodation on the employer’s  
1659 program, enterprise or business.

1660 (c) Upon request for an accommodation from the employee or TND or prospective  
1661 employee or TND capable of performing the essential functions of the position involved, the  
1662 employee or TND or prospective employee or TND and the employer or TNC shall engage in a  
1663 timely, good faith and interactive process to determine an effective, reasonable accommodation  
1664 to enable the employee or TND or prospective employee or TND to perform the essential  
1665 functions of the employee’s or TND’s job or the position to which the prospective employee or  
1666 TND has applied. An employer or TNC may require that documentation about the need for a  
1667 reasonable accommodation come from an appropriate health care or rehabilitation professional;  
1668 provided, however, that an employer or TNC shall not require documentation from an



1669 appropriate health care or rehabilitation professional for the following accommodations: (i) more  
1670 frequent restroom, food or water breaks; (ii) seating; (iii) limits on lifting more than 20 pounds;  
1671 and (iv) private non-bathroom space for expressing breast milk. An “appropriate health care or  
1672 rehabilitation professional” shall include, but shall not be limited to, a medical doctor, including  
1673 a psychiatrist, a psychologist, a nurse practitioner, a physician assistant, a psychiatric clinical  
1674 nurse specialist, a physical therapist, an occupational therapist, a speech therapist, a vocational  
1675 rehabilitation specialist, a midwife, a lactation consultant or another licensed mental health  
1676 professional authorized to perform specified mental health services. An employer or TNC may  
1677 require documentation for an extension of the accommodation beyond the originally agreed to  
1678 accommodation.

1679 (d) Written notice of the right to be free from discrimination in relation to pregnancy or a  
1680 condition related to the employee’s or TND’s pregnancy including, but not limited to, lactation  
1681 or the need to express breast milk for a nursing child, including the right to reasonable  
1682 accommodations for conditions related to pregnancy pursuant to this subsection, shall be  
1683 distributed by an employer or TNC to its employees. The notice shall be provided in a handbook,  
1684 pamphlet or other means of notice to all employees or TNDs including, but not limited to: (i)  
1685 new employees or TNDs at or prior to the commencement of employment; and (ii) an employee  
1686 or TND who notifies the employer of a pregnancy or an employee or TND who notifies the  
1687 employer or TNC of a condition related to the employee’s or TND’s pregnancy including, but  
1688 not limited to, lactation or the need to express breast milk for a nursing child not more than 10  
1689 days after such notification.

1690 (e) Subject to appropriation, the commission shall develop courses of instruction and  
1691 conduct public education efforts as necessary to inform employers, TNCs, employees, TNDs,

1692 and employment agencies about the rights and responsibilities established under this subsection  
1693 not more than 180 days after the appropriation.

1694 (f) This subsection shall not be construed to preempt, limit, diminish or otherwise affect  
1695 any other law relating to sex discrimination or pregnancy or in any way diminish the coverage  
1696 for pregnancy or a condition related to pregnancy including, but not limited to, lactation or the  
1697 need to express breast milk for a nursing child under section 105D of chapter 149.

1698 Section 9. Section 4, subsection 3 of Chapter 151B of the General Laws is hereby  
1699 amended by inserting after “For an employer” in the first sentence the following words:- “or  
1700 TNC”

1701 Section 10. Section 4, subsection 4 of Chapter 151B of the General Laws is hereby  
1702 amended by inserting after “employer” in the first sentence the following word:- “TNC”

1703 Section 11. Section 4, subsection 5 of Chapter 151B of the General Laws is hereby  
1704 amended by inserting after “employer” in the first sentence the following words:- “TNC, TND”

1705 Section 12. Section 4 of Chapter 151B of the General Laws is hereby further amended by  
1706 striking out subsection 9 and inserting in place thereof the following subsection:-

1707 9. For an employer or TNC, himself or through his agent, in connection with an  
1708 application for employment, or the terms, conditions, or privileges of employment, or the  
1709 transfer, promotion, bonding, or discharge of any person, or in any other matter relating to the  
1710 employment of any person, to request any information, to make or keep a record of such  
1711 information, to use any form of application or application blank which requests such  
1712 information, or to exclude, limit or otherwise discriminate against any person by reason of his or

1713 her failure to furnish such information through a written application or oral inquiry or otherwise  
1714 regarding: (i) an arrest, detention, or disposition regarding any violation of law in which no  
1715 conviction resulted, or (ii) a first conviction for any of the following misdemeanors:  
1716 drunkenness, simple assault, speeding, minor traffic violations, affray, or disturbance of the  
1717 peace, or (iii) any conviction of a misdemeanor where the date of such conviction or the  
1718 completion of any period of incarceration resulting therefrom, whichever date is later, occurred 3  
1719 or more years prior to the date of such application for employment or such request for  
1720 information, unless such person has been convicted of any offense within 3 years immediately  
1721 preceding the date of such application for employment or such request for information, or (iv) a  
1722 criminal record, or anything related to a criminal record, that has been sealed or expunged  
1723 pursuant to chapter 276.

1724 No person shall be held under any provision of any law to be guilty of perjury or of  
1725 otherwise giving a false statement by reason of his failure to recite or acknowledge such  
1726 information as he has a right to withhold by this subsection.

1727 Nothing contained herein shall be construed to affect the application of section thirty-four  
1728 of chapter ninety-four C, or of chapter two hundred and seventy-six relative to the sealing of  
1729 records.

1730 Nothing contained herein shall be construed to prohibit a transportation network  
1731 company from complying with its obligations set forth in section 4 of chapter 159A1/2 of the  
1732 General Laws.

1733 Section 13. Section 4 of Chapter 151B of the General Laws is hereby further amended by  
1734 striking out subsection 91/2 and inserting in place thereof the following subsection:-

1735           9 ½. For an employer or TNC to request on its initial written application form criminal  
1736 offender record information; provided, however, that except as otherwise prohibited by  
1737 subsection 9, an employer may inquire about any criminal convictions on an applicant's  
1738 application form if: (i) the applicant is applying for a position for which any federal or state law  
1739 or regulation creates mandatory or presumptive disqualification based on a conviction for 1 or  
1740 more types of criminal offenses; or (ii) the employer or TNC or an affiliate of such employer or  
1741 TNC is subject to an obligation imposed by any federal or state law or regulation not to employ  
1742 persons, in either 1 or more positions, who have been convicted of 1 or more types of criminal  
1743 offenses.

1744           Section 14. Section 4, subsection 9A of Chapter 151B of the General Laws is hereby  
1745 amended by inserting after “For an employer” in the first sentence the following words:- “or  
1746 TNC”

1747           Section 15. Section 4 of Chapter 151B of the General Laws is hereby amended by  
1748 striking out subsection 11A and inserting in place thereof the following subsection:-

1749           11A. For an employer or TNC, or an employer’s or TNC’s agent, to refuse to restore  
1750 certain employees or TNDs to employment following an absence by reason of a parental leave  
1751 taken pursuant to section 105D of chapter 149 or to otherwise fail to comply with that section, or  
1752 for the commonwealth and any of its boards, departments and commissions to deny vacation  
1753 credit to an employee for the fiscal year during which the employee or TND is absent due to a  
1754 parental leave taken pursuant to said section 105D of said chapter 149, or to impose any other  
1755 penalty as a result of a parental leave of absence.

1756 Section 16. Section 4 of Chapter 151B of the General Laws is hereby further amended by  
1757 striking out subsection 16 and inserting in place thereof the following subsection:-

1758 16. For any employer or TNC, personally or through an agent, to dismiss from  
1759 employment or refuse to hire, rehire or advance in employment or otherwise discriminate  
1760 against, because of his handicap, any person alleging to be a qualified handicapped person,  
1761 capable of performing the essential functions of the position involved with reasonable  
1762 accommodation, unless the employer or TNC can demonstrate that the accommodation required  
1763 to be made to the physical or mental limitations of the person would impose an undue hardship  
1764 to the employer's or TNC's business. For purposes of this subsection, the word employer or TNC  
1765 shall include an agency which employs individuals directly for the purpose of furnishing part-  
1766 time or temporary help to others.

1767 In determining whether an accommodation would impose an undue hardship on the  
1768 conduct of the employer's business, factors to be considered include:--

1769 (1) the overall size of the employer's or TNC's business with respect to the number of  
1770 employees, number and type of facilities, and size of budget or available assets;

1771 (2) the type of the employer's or TNC's operation, including the composition and  
1772 structure of the employer's or TNC's workforce; and

1773 (3) the nature and cost of the accommodation needed.

1774 Physical or mental job qualification requirement with respect to hiring, promotion,  
1775 demotion or dismissal from employment or any other change in employment status or

1776 responsibilities shall be functionally related to the specific job or jobs for which the individual is  
1777 being considered and shall be consistent with the safe and lawful performance of the job.

1778           An employer or TNC may not make preemployment inquiry of an applicant as to whether  
1779 the applicant is a handicapped individual or as to the nature or severity of the handicap, except  
1780 that an employer or TNC may condition an offer of employment on the results of a medical  
1781 examination conducted solely for the purpose of determining whether the employee or TNC,  
1782 with reasonable accommodation, is capable of performing the essential functions of the job, and  
1783 an employer may invite applicants to voluntarily disclose their handicap for purposes of assisting  
1784 the employer in its affirmative action efforts.

1785           Section 17. Section 4 of Chapter 151B of the General Laws is hereby further amended by  
1786 striking out subsection 16A and inserting in place thereof the following subsection:-

1787           16A. For an employer or TNC, personally or through its agents, to sexually harass any  
1788 employee or TND.

1789           Section 18. Section 4 of Chapter 151B of the General Laws is hereby further amended by  
1790 striking out subsection 17 and inserting in place thereof the following subsection:-

1791           17. Notwithstanding any provision of this chapter, it shall not be an unlawful  
1792 employment practice for any person, employer, TNC, labor organization or employment agency  
1793 to:

1794           (a) observe the terms of a bona fide seniority system or any bona fide employee or TND  
1795 benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade  
1796 the purposes of this section, except that no such employee or TND benefit plan shall excuse the

1797 failure to hire any person, and no such seniority system or employee benefit plan shall require or  
1798 permit the involuntary retirement of any person because of age except as permitted by paragraph  
1799 (b).

1800 (b) require the compulsory retirement of any person who has attained the age of sixty-five  
1801 and who, for the two year period immediately before retirement, is employed in a bona fide  
1802 executive or high policymaking position, if such person entitled to an immediate nonforfeitable  
1803 annual retirement benefit from a pension, profit-sharing, savings or deferred compensation plan,  
1804 or any combination of such plans, of the employer, which equals, in the aggregate, at least forty-  
1805 four thousand dollars.

1806 (c) require the retirement of any employee or TND who has attained seventy years of age  
1807 and who is serving under a contract of unlimited tenure or similar arrangement providing for  
1808 unlimited tenure at an independent institution of higher education, or to limit the employment in  
1809 a faculty capacity of such an employee or TND, or another person who has attained seventy  
1810 years of age who was formerly employed under a contract of unlimited tenure or similar  
1811 arrangement, to such terms and to such a period as would serve the present and future needs of  
1812 the institution, as determined by it; provided, however, that in making such a determination, no  
1813 institution shall use as a qualification for employment or reemployment, the fact that the  
1814 individual is under any

1815 Section 19. Section 4 of Chapter 151B of the General Laws is hereby further amended by  
1816 striking out subsection 18 and inserting in place thereof the following subsection:-

1817 18. For the owner, lessee, sublessee, licensed real estate broker, assignee, or managing  
1818 agent of publicly assisted or multiple dwelling or contiguously located housing accommodations

1819 or other covered housing accommodations, or other person having the right of ownership or  
1820 possession, or right to rent or lease, or sell or negotiate for the sale of such accommodations, or  
1821 any agent or employee of such person or any organization of unit owners in a condominium or  
1822 housing cooperative to sexually harass any tenant, prospective tenant, purchaser or prospective  
1823 purchaser of property.

1824 Notwithstanding the foregoing provisions of this section, it shall not be an unlawful  
1825 employment practice for any person, employer, TNC, labor organization or employment agency  
1826 to inquire of an applicant for employment or membership as to whether or not he or she is a  
1827 veteran or a citizen.

1828 Notwithstanding the provisions of any general or special law nothing herein shall be  
1829 construed to bar any religious or denominational institution or organization, or any organization  
1830 operated for charitable or educational purposes, which is operated, supervised or controlled by or  
1831 in connection with a religious organization, from limiting admission to or giving preference to  
1832 persons of the same religion or denomination or from taking any action with respect to matters of  
1833 employment, discipline, faith, internal organization, or ecclesiastical rule, custom, or law which  
1834 are calculated by such organization to promote the religious principles for which it is established  
1835 or maintained.

1836 Notwithstanding the foregoing provisions of this section, (a) every employer, every TNC,  
1837 every employment agency, including the division of employment and training, and every labor  
1838 organization shall make and keep such records relating to race, color or national origin as the  
1839 commission may prescribe from time to time by rule or regulation, after public hearing, as  
1840 reasonably necessary for the purpose of showing compliance with the requirements of this



1841 chapter, and (b) every employer, TNC and labor organization may keep and maintain such  
1842 records and make such reports as may from time to time be necessary to comply, or show  
1843 compliance with, any executive order issued by the President of the United States or any rules or  
1844 regulations issued thereunder prescribing fair employment practices for contractors and  
1845 subcontractors under contract with the United States, or, if not subject to such order, in the  
1846 manner prescribed therein and subject to the jurisdiction of the commission. Such requirements  
1847 as the commission may, by rule or regulation, prescribe for the making and keeping of records  
1848 under clause (a) shall impose no greater burden or requirement on the employer, TNC,  
1849 employment agency or labor organization subject thereto, than the comparable requirements  
1850 which could be prescribed by Federal rule or regulation so long as no such requirements have in  
1851 fact been prescribed, or which have in fact been prescribed for an employer, TNC, employment  
1852 agency or labor organization under the authority of the Civil Rights Act of 1964, from time to  
1853 time amended.<sup>1</sup> This paragraph shall apply only to employers or TNCs who on each working  
1854 day in each of twenty or more calendar weeks in the annual period ending with each date set  
1855 forth below, employed more employees or TNDs than the number set forth beside such date, and  
1856 to labor organizations which have more members on each such working day during such period.

1857           Minimum Employees or TNDs

1858           Period Ending.

1859           or Members.

1860           June 30, 1965

1861           100

1862 June 30, 1966

1863 75

1864 June 30, 1967

1865 50

1866 June 30, 1968 and thereafter

1867 25

1868 Nothing contained in this chapter or in any rule or regulation issued by the commission  
1869 shall be interpreted as requiring any employer, TNC, employment agency or labor organization  
1870 to grant preferential treatment to any individual or to any group because of the race, color,  
1871 religious creed, national origin, sex, gender identity, sexual orientation, which shall not include  
1872 persons whose sexual orientation involves minor children as the sex object, age, genetic  
1873 information or ancestry of such individual or group because of imbalance which may exist  
1874 between the total number or percentage of persons employed by any employer or TNC, referred  
1875 or classified for employment by any employment agency or labor organization, admitted to  
1876 membership or classified by any labor organization or admitted to or employed in, any  
1877 apprenticeship or other training program, and the total number or percentage of persons of such  
1878 race, color, religious creed, national origin, sex, gender identity, sexual orientation, which shall  
1879 not include persons whose sexual orientation involves minor children as the sex object, age,  
1880 genetic information or ancestry in the commonwealth or in any community, section or other area  
1881 therein, or in the available work force in the commonwealth or in any of its political  
1882 subdivisions.

1883 Section 20. Section 4, subsection 19 of Chapter 151B of the General Laws is hereby  
1884 amended by inserting after “employer” in the first sentence of subsection (a) the following  
1885 word:- “TNC”

1886 SECTION 6. Paid Family Medical Leave

1887 Section 1. Section 1 of Chapter 175M of the General Laws is hereby amended by  
1888 inserting after the sentence defining “Department” the following words:-

1889 “Digital network”, the same as defined in section 1 of chapter 159A ½.

1890 Section 2. Section 1 of Chapter 175M of the General Laws is hereby further amended by  
1891 inserting after the sentence defining “State average weekly wage” the following words:-

1892 “Discharging,” “firing” and “terminating”, any termination of services of a  
1893 transportation network worker by a transportation network company from an application or  
1894 platform, including suspension, refusal to contract, termination of contract, and deactivation.

1895 “Transportation network company” or “TNC”, the same as defined in section 1 of chapter  
1896 159A ½.

1897 “Transportation network driver” or “TND”, the same as defined in section 1 of chapter  
1898 159A ½.

1899 Section 3. Chapter 175M of the General Laws is hereby amended by striking out section  
1900 4 and inserting in place thereof the following section:-

1901 Section 4: Notice

1902           Section 4. (a) Each employer and covered business entity shall post in a conspicuous  
1903 place on each of its premises a workplace notice prepared or approved by the department  
1904 providing notice of benefits available under this chapter. Where the employer or covered  
1905 business entity does not control the daily workplace, employer or covered business entity shall  
1906 post electronically or other means which are the usual means of communication with employee  
1907 or covered business entity. The workplace notice shall be issued in English, Spanish, Chinese,  
1908 Haitian Creole, Italian, Portuguese, Vietnamese, Laotian, Khmer, Russian and any other  
1909 language that is the primary language of at least 10,000 or .5 of one per cent of all residents of  
1910 the commonwealth. The required workplace notice shall be in English and each language other  
1911 than English which is the primary language of 5 or more employees or self-employed individuals  
1912 of that workplace, if such notice is available from the department.

1913           Each employer shall issue to each employee not more than 30 days from the beginning  
1914 date of the employee's employment, provided however that TNC shall issue to each TND not  
1915 more than 30 days from certification of the TND by the TNC the following written information  
1916 provided or approved by the department in the employee's primary language: (i) an explanation  
1917 of the availability of family and medical leave benefits provided under this chapter, including  
1918 rights to reinstatement and continuation of health insurance; (ii) the employee's contribution  
1919 amount and obligations under this chapter; (iii) the employer's contribution amount and  
1920 obligations under this chapter; (iv) the name and mailing address of the employer; (v) the  
1921 identification number assigned to the employer by the department; (vi) instructions on how to  
1922 file a claim for family and medical leave benefits; (vii) the mailing address, email address and  
1923 telephone number of the department; and (viii) any other information deemed necessary by the  
1924 department. Delivery is made when an employee provides written acknowledgement of receipt

1925 of the information, or signs a statement indicating the employee's refusal to sign such  
1926 acknowledgement.

1927 Section 4. Chapter 175M of the General Laws is hereby amended by striking out section  
1928 9 and inserting in place thereof the following section:-

1929 Section 9: Prohibited acts

1930 Section 9. (a) It shall be unlawful for any employer to retaliate by discharging, firing,  
1931 suspending, expelling, disciplining, through the application of attendance policies or otherwise,  
1932 threatening intimidating, terminating, or harassing a worker, filing a false report with a  
1933 government agency, reducing compensation, garnishing tips or gratuities, denying or limiting  
1934 access to incentives or bonuses, informing another TNC that a TND has engaged in activities  
1935 protected by this section, or in any other manner discriminating against an employee including  
1936 actions related to perceived immigration status or work authorization, for exercising any right to  
1937 which such employee is entitled under this chapter or with the purpose of interfering with the  
1938 exercise of any right to which such employee is entitled under this chapter.

1939 (b) It shall be unlawful for any employer to retaliate by discharging, firing, suspending,  
1940 expelling, disciplining, through the application of attendance policies or otherwise, threatening  
1941 intimidating, terminating, or harassing a worker, filing a false report with a government agency,  
1942 reducing compensation, garnishing tips or gratuities, denying or limiting access to incentives or  
1943 bonuses, informing another TNC that a TND has engaged in activities protected by this section,  
1944 or in any other manner discriminating including actions related to perceived immigration status  
1945 or work authorization, against an employee who has filed a complaint or instituted or caused to be  
1946 instituted a proceeding under or related to this section, has testified or is about to testify in an

1947 inquiry or proceeding or has given or is about to give information connected to any inquiry or  
1948 proceeding relating to this section.

1949 (c) Any negative change in the seniority, status, employment benefits, pay or other terms  
1950 or conditions of employment of an employee or TND which occurs any time during a leave taken  
1951 by an employee or TND under this chapter, or during the 6 month period following an  
1952 employee's or TND's leave or restoration to a position pursuant to this section, or of an employee  
1953 or TND who has participated in proceedings or inquiries pursuant to this section within 6 months  
1954 of the termination of proceedings shall be presumed to be retaliation under this section. Such  
1955 presumption shall be rebutted only by clear and convincing evidence that such employer's or  
1956 TNC's action was not retaliation against the employee or TND and that the employer or TNC  
1957 had sufficient independent justification for taking such action and would have in fact taken such  
1958 action in the same manner and at the same time the action was taken, regardless of the  
1959 employee's or TND's use of leave, restoration to a position or participation in proceedings or  
1960 inquiries as described in this subsection. An employer or TNC found to have threatened, coerced  
1961 or taken reprisal against any employee or TND pursuant to this subsection shall rescind any  
1962 adverse alteration in the terms of employment for such employee or TND and shall offer  
1963 reinstatement to any terminated employee or TND and shall also be liable in an action brought  
1964 under subsection (d).

1965 (d) An employee or TND or former employee or TND aggrieved by a violation of this  
1966 section or subsections (e) and (f) of section 2 of this chapter may, not more than 3 years after the  
1967 violation occurs, institute a civil action in the superior court. A party to the action shall be  
1968 entitled to a jury trial. All remedies available in common law tort actions shall be available to  
1969 prevailing plaintiffs and shall be in addition to any legal or equitable relief provided in this

1970 section. The court may: (i) issue temporary restraining orders or preliminary or permanent  
1971 injunctions to restrain continued violations of this section; (ii) reinstate the employee or TND to  
1972 the same position held before the violation or to an equivalent position; (iii) reinstate full fringe  
1973 benefits and seniority rights to the employee or TND; (iv) compensate the employee or TND for  
1974 3 times the lost wages, benefits and other remuneration and the interest thereon; and (v) order  
1975 payment by the employer or TNC of reasonable costs and attorneys' fees.

1976 SECTION 7. Severability

1977 The provisions of this act shall be severable and if any phrase, clause, sentence or  
1978 provision of this article or the applicability thereof to any person, entity, or circumstance shall be  
1979 held invalid, the remainder of this act and the application thereof shall not be affected.