

The Commonwealth of Massachusetts

INITIATIVE PETITION OF CHRISTINA M. ELLIS-HIBBET AND OTHERS.

OFFICE OF THE SECRETARY.

BOSTON, January 28, 2022.

Steven T. James
Clerk of the House of Representatives
State House
Boston, Massachusetts 02133

Sir: — I herewith transmit to you, in accordance with the requirements of Article XLVIII of the Amendments to the Constitution an initiative petition for “A Law Defining and Regulating the Contract-Based Relationship Between Network Companies and App-Based Drivers (Version A)” signed by ten qualified voters and filed with this department on or before December 1, 2021, together with additional signatures of qualified voters in the number of 101,738, being a sufficient number to comply with the Provisions of said Article.

Sincerely,

WILLIAM FRANCIS GALVIN
Secretary of the Commonwealth.

AN INITIATIVE PETITION.

Pursuant to Article XLVIII of the Amendments to the Constitution of the Commonwealth, as amended, the undersigned qualified voters of the Commonwealth, ten in number at least, hereby petition for the enactment into law of the following measure:

HOUSE No. 4375

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act defining and regulating the contract-based relationship between network companies and app-based drivers.

Be it enacted by the People, and by their authority, as follows:

1 SECTION 1. The General Laws are hereby amended by inserting after chapter 159A1 /2
2 the following chapter:

3 Chapter 159AA

4 Section 1. Title. This chapter shall be known as the "Relationship Between Network Companies
5 and App-Based Drivers Act."

6 Section 2. Purpose. The purpose of this Act is to define and regulate the contract-based
7 relationship between network companies and app-based drivers as independent contractors with
8 required minimum compensation, benefits, and training standards that will operate uniformly
9 throughout the commonwealth, guaranteeing drivers the freedom and flexibility to choose when,
10 where, how, and for whom they work.

11 Section 3. Definitions. For the purposes of this chapter, the following words shall have the
12 following meanings:

13 "App-based driver" or "driver", a person (a) who is a DNC courier and/or TNC driver; and (b)
14 for whom the following conditions are satisfied: (1) the network company does not unilaterally
15 prescribe specific dates, times of day, or a minimum number of hours during which the DNC
16 courier and/or TNC driver must be logged into the network company's online-enabled
17 application or platform; (2) the network company may not terminate the contract of the DNC
18 courier and/or TNC driver for not accepting a specific transportation service or delivery service
19 request; (3) the network company does not restrict the DNC courier and/or TNC driver from
20 performing services through other network companies except while performing services through
21 the network company's online-enabled application or platform; and (4) the network company
22 does not contractually restrict the DNC courier and/or TNC driver from working in any other
23 lawful occupation or business. Notwithstanding any other law to the contrary, a DNC courier
24 and/or TNC driver who is an app-based driver as defined herein shall be deemed to be an
25 independent contractor and not an employee or agent for all purposes with respect to his or her
26 relationship with the network company.

27 "Average ACA contribution", 82 per cent of the dollar amount of the average monthly Health
28 Connector premium.

29 "Average hourly earnings", an app-based driver's earnings from, or facilitated by, the network
30 company during the 365 days immediately prior to the day that earned paid sick time is used,
31 divided by the total hours of engaged time worked by the app-based driver on that network
32 company's online-enabled application or platform during that period.

33 "Average monthly Health Connector premium", the dollar amount published pursuant to
34 subsection (f) of section 6 of this chapter.

35 "Contract," a written agreement, which may be electronic, between an app-based driver and a
36 network company.

37 "Delivery Network Company" or "DNC", a business entity that (a) maintains an online-enabled
38 application or platform used to facilitate delivery services within the Commonwealth and (b)
39 maintains a record of the amount of engaged time and engaged miles accumulated by DNC
40 couriers.

41 "Delivery Network Company Courier" or "DNC courier", a person who provides delivery
42 services through a DNC's online-enabled application or platform.

43 "Delivery services", the fulfillment of a delivery request, meaning the pickup from any location
44 in the Commonwealth of any item or items and the delivery of the items using a private
45 passenger motor vehicle, bicycle, electric bicycle, motorized bicycle, scooter, motorized scooter,
46 walking, public transportation, or other similar means of transportation, to a location selected by
47 the customer located within 50 miles of the pickup location. A delivery request may include
48 more than 1, but not more than 30, distinct orders placed by different customers. Delivery
49 services may include the selection, collection, or purchase of items by a DNC courier, as well as
50 other tasks incident to a delivery. Delivery services do not include assistance with residential
51 moving services.

52 "Earnings", all amounts, including incentives and bonuses, remitted to an app-based driver,
53 provided that the amount does not include toll fees, cleaning fees, airport fees, or other customer
54 pass-throughs. Amounts remitted are net of service fees or similar fees charged to the app-based
55 driver by the network company. Amounts remitted do not include tips or gratuities.

56 "Engaged miles", all miles driven during engaged time in a private passenger motor vehicle that
57 is not owned, leased, or rented by the network company, or any of its affiliates. Network
58 companies may exclude miles if doing so is reasonably necessary to remedy or prevent
59 fraudulent use of the network company's online-enabled application or platform.

60 "Engaged time", (a) subject to the conditions set forth in subsection

61 (b) in this definition, the period of time, as recorded in a network company's online-enabled
62 application or platform, from when a driver accepts a request for delivery or transportation
63 services to when the driver fulfills that request. For requests that are scheduled in advance and
64 for which the driver accepts the request but is not immediately en route to fulfill that request, a
65 driver shall only be considered engaged on a network company's platform when the driver is en
66 route to fulfill that scheduled request, regardless of when the driver accepted the request. (b)
67 Engaged time shall not include (1) any time spent performing delivery or transportation services
68 after the request has been cancelled by the customer; or (2) any time spent on a request for
69 delivery or transportation services where the driver abandons performance of the service prior to
70 completion. Network companies may also exclude time if doing so is reasonably necessary to
71 remedy or prevent fraudulent use of the network company's online-enabled application or
72 platform.

73 "Health Connector", the Commonwealth Health Insurance Connector Authority established by
74 chapter 58 of the acts of 2006 and section 2 of chapter 176Q of the Massachusetts General Laws.

75 "Network company", a DNC and/or TNC.

76 "Person", shall have the same definition as provided in clause twenty-third of section 7 of
77 chapter 4 of the Massachusetts General Laws.

78 "Private passenger motor vehicle," any passenger vehicle which has a vehicle weight rating or
79 curb weight of 6,000 lbs. or less as per manufacturer's description of said vehicle or is a sport
80 utility vehicle, passenger van, or pickup truck.

81 "Qualifying health plan", a health insurance plan in which the app-based driver is the subscriber,
82 that is not paid for in full or in part by any current or former employer, and that is not a Medicare
83 or Medicaid plan.

84 "Quarter", each of the following 4 time periods: (a) January 1 through March 31; (b) April 1
85 through June 30; (c) July 1 through September 30; (d) October 1 through December 31.

86 "Transportation network company" or "TNC", has the same meaning as provided in section 1 of
87 chapter 159A1/2 of the Massachusetts General Laws.

88 "Transportation network company driver" or "TNC driver", a Transportation network driver, as
89 defined in section 1 of chapter 159A1/2 of the Massachusetts General Laws, that provides
90 transportation services, or a person operating a livery vehicle as defined in 540 CMR 2.00 on a
91 TNC's digital network, as defined in section 1 of chapter 159A1/2.

92 "Transportation services", the provision of transportation facilitated by the digital network, as
93 defined in section 1 of chapter 159A1/2 of the Massachusetts General Laws, of a TNC for which
94 the pickup of the passenger occurs in the Commonwealth.

95 Section 4. Paid Occupational Safety Training Requirement.

96 (a) A network company shall require an app-based driver to complete a training session or
97 sessions as described in this section prior to allowing the driver to utilize the network company's
98 online-enabled application or platform. A network company shall compensate the driver at a rate
99 of 120 per cent of the minimum wage described in paragraph (1) of subsection (c) of section 5 of
100 this chapter for the time designated to complete a training session, which shall be due and
101 payable no later than during the next earnings period in which the driver fulfills at least one
102 request for delivery or transportation services. No payment shall be required for any training
103 session that is not completed or for any discretionary time spent reviewing training materials
104 outside of a designated training session.

105 (b) Each network company shall provide each app-based with driver safety training, which shall
106 include the following:

107 (1) Recognition and prevention of sexual assault and misconduct, including, at a minimum: a
108 description and specific examples of sexual assault and misconduct; techniques for bystander
109 intervention; and standards of professionalism.

110 (2) For drivers using a private passenger motor vehicle: collision avoidance; defensive driving
111 techniques; and identification of collision-causing elements such as excessive speed, DUI, and
112 distracted driving.

113 (3) For drivers delivering prepared food or groceries: food safety information relevant to the
114 delivery of food, including temperature control.

115 (c) The training may, at the discretion of the network company, be provided via online, video, or
116 in-person training.

117 (d) Notwithstanding subsection (a), any app-based driver that entered into a contract with a
118 network company prior to January 1, 2023 to provide transportation services or delivery services
119 through the network company's online-enabled application or platform shall have until July 31,
120 2023 to complete the training required by this section, and may continue to provide
121 transportation services or delivery services through the network company's online-enabled
122 application or platform until that date. On and after August 1, 2023, all app-based drivers
123 described in this subsection must complete the training required by this section in order to
124 continue providing transportation services and delivery services through the network company's
125 online-enabled application or platform.

126 (e) In addition to the training required in this section, a network company may provide additional
127 voluntary training, education, or upskilling courses or materials.

128 Section 5: Guaranteed Earnings Floor.

129 (a) A network company shall ensure that for each earnings period, a driver is compensated at not
130 less than the net earnings floor as set forth in this section. The net earnings floor establishes a
131 guaranteed minimum level of compensation for drivers that cannot be reduced. In no way does
132 the net earnings floor prohibit drivers from earning a higher level of compensation.

133 (b) For each earnings period, a network company shall compare a driver's net earnings against
134 the net earnings floor for that driver during the earnings period. In the event that the driver's net
135 earnings in the earnings period are less than the net earnings floor for that earnings period, the
136 network company shall include an additional sum accounting for the difference in the driver's
137 earnings no later than during the next earnings period.

138 (c) For purposes of this section, the following definitions apply:

139 (1) "Minimum wage", means the state mandated minimum wage for all industries as provided by
140 section 1 of chapter 151 of the Massachusetts General Laws.

141 (2) "Earnings period", means a pay period, set by the network company, not to exceed 14
142 consecutive calendar days.

143 (3) "Net earnings", means all earnings received by an app-based driver in an earnings period.

144 (4) "Net earnings floor", means, for any earnings period, a total amount that consists of:

145 (i) For all engaged time, the sum of 120 per cent of the minimum wage for that engaged time.

146 (ii)(A) The per-mile compensation for vehicle expenses set forth in this clause multiplied by the
147 total number of engaged miles.

148 (B) After the effective date of this chapter and for the 2023 calendar year, the per-mile
149 compensation for vehicle expenses shall be 26 cents per engaged mile. For calendar years after
150 2023, the amount per engaged mile shall be adjusted pursuant to the following subclause

151 (C). (C) For calendar years following 2023, the per-mile compensation for vehicle expenses
152 described in subclause (B) shall be adjusted every five years to reflect any change in inflation as
153 measured by the Consumer Price Index for All Urban Consumers (CPI-U) published by the
154 United States Bureau of Labor Statistics, or any successor index or agency. The commissioner of
155 administration shall calculate and publish the adjustments required by this subclause.

156 (d) Nothing in this section shall be interpreted to require a network company to provide a
157 particular amount of compensation to a driver for any given transportation or delivery request, as

158 long as the driver's net earnings for each earnings period equals or exceeds that driver's net
159 earnings floor for that earnings period as set forth in subsection (b) of this section.

160 Section 6. Healthcare Stipend.

161 (a) Consistent with the average contributions required under the federal Patient Protection and
162 Affordable Care Act, Pub. L. 111-148 (March 23, 2010), a network company shall provide a
163 quarterly healthcare stipend to app-based drivers who meet the conditions set forth in this
164 section. An app-based driver that averages the following amounts of engaged time per week on a
165 network company's platform during a quarter that commences on or after January 1, 2023 shall
166 receive the following stipends from that network company:

167 (1) For an average of 25 hours or more per week of engaged time in the quarter, a payment
168 greater than or equal to 100 per cent of the average ACA contribution for the applicable average
169 monthly Health Connector premium for each month in the quarter.

170 (2) For an average of at least 15 but less than 25 hours per week of engaged time in the quarter, a
171 payment greater than or equal to 50 per cent of the average ACA contribution for the applicable
172 average monthly Health Connector premium for each month in the quarter.

173 (b) At the end of each earnings period, a network company shall provide to each app-based
174 driver the following information:

175 (1) The number of hours of engaged time the app-based driver recorded in the network company
176 's online-enabled application or platform during that earnings period.

177 (2) The number of hours of engaged time the app-based driver has recorded in the network
178 company's online-enabled application or platform during the current quarter up to that point.

179 (c) The Health Connector may adopt or amend regulations as it deems appropriate to implement
180 this section, including to permit app-based drivers receiving stipends pursuant to this section to
181 enroll in health plans offered through the Health Connector.

182 (d)(l) As a condition of providing the healthcare stipend set forth in subsection (a), a network
183 company may require an app-based driver to submit proof of current enrollment in a qualifying
184 health plan as of the last day of the quarter for which the stipend would be provided. Proof of
185 current enrollment may include, but is not limited to, health insurance membership or
186 identification cards, evidence of coverage and disclosure forms from the health plan, or claim
187 forms and other documents necessary to submit claims.

188 (2) An app-based driver shall have not less than 15 calendar days from the end of the quarter to
189 provide proof of enrollment as set forth in paragraph (1) of this subsection.

190 (3) A network company shall provide a healthcare stipend due for a quarter under subsection (a)
191 within 15 days of the end of the quarter or within 15 days of the app-based driver's submission of
192 proof of enrollment as set forth in paragraph (1) of this subsection, whichever is later.

193 (e) Nothing in this section shall be interpreted to prevent an app-based driver from receiving a
194 healthcare stipend from more than one network company for the same quarter.

195 (f)(l) On or before 14 days following the effective date of this section, and on or before each
196 September 1 thereafter, the Health Connector shall publish the average statewide monthly

197 premium paid, or anticipated to be paid, by an individual for the following calendar year for a
198 Health Connector bronze tier health insurance plan, or any future successor equivalent plan.

199 (2) When computing the average as required by paragraph (1) of this subsection, the Health
200 Connector shall divide the total monthly premium paid, or anticipated to be paid, by all enrollees
201 in an individual Health Connector bronze tier health insurance plan, or any future successor
202 equivalent plan, by the total number of individuals in the commonwealth who are enrolled in, or
203 anticipated to be enrolled in, such plans.

204 (g) This section shall become inoperative in the event that the United States or the
205 commonwealth implements a single-payer universal healthcare system or substantially similar
206 system that expands coverage to the recipients of stipends under this section.

207 Section 7. Paid Sick Time. Network companies shall provide app-based drivers with earned paid
208 sick time as set forth in this section.

209 (a) "Earned paid sick time", is the time provided by a network company to an app-based driver as
210 calculated under subsection (c) of this section. For each hour of earned paid sick time used by an
211 app-based driver, the network company shall compensate the driver at a rate equal to the greater
212 of the following:

213 (1) The app-based driver's average hourly earnings.

214 (2) 120 per cent of the minimum wage described in paragraph (1) of subsection (c) of section 5
215 of this chapter.

216 (b) An app-based driver shall only use earned paid sick time for the same reasons set forth for
217 employees in paragraph (1) through paragraph (4) of subsection (c) of section 148C of chapter
218 149 of the Massachusetts General Laws.

219 (c) A network company shall provide a minimum of one hour of earned paid sick time for every
220 30 hours of engaged time recorded on or after the effective date of this section by an app- based
221 driver in the network company's online-enabled application or platform. App-based drivers shall
222 be entitled to first use accrued earned paid sick time upon recording 90 hours of engaged time on
223 the network company's online-enabled application or platform. From that day forward, an app-
224 based driver may use earned sick time as it accrues. A contract between a network company and
225 an app-based driver may require the driver to use earned paid sick time in increments of up to 4
226 hours.

227 (d) App-based drivers may carry over up to 40 hours of unused earned paid sick time to the next
228 calendar year, but are not entitled to use more than 40 hours in one calendar year. Network
229 companies shall not be required to pay out unused earned paid sick time. If an app-based driver
230 does not record any engaged time in a network company's online-enabled application or platform
231 for 365 or more consecutive days or the app-based driver's contract with a network company is
232 terminated, any unused earned paid sick time accrued up to that point with that network
233 company shall no longer be valid or recognized.

234 (e) A network company may require certification when an app-based driver makes a request to
235 use more than 24 hours of earned paid sick time in a 72-hour period or when reasonably
236 necessary to prevent fraud. Any reasonable documentation signed by a health care provider
237 indicating the need for earned paid sick time taken shall be deemed acceptable certification for

238 absences. Nothing in this section shall be construed to require an app-based driver to provide as
239 certification any information from a health care provider that would be in violation of federal
240 law.

241 Section 8. Paid Family and Medical Leave.

242 (a) An app-based driver shall be entitled to coverage in the family leave and medical leave
243 programs established by chapter 175M of the Massachusetts General Laws as set forth in this
244 section unless the driver declines coverage via a written notification, which may be electronic, to
245 the network company. Such declination shall continue to be effective until revoked by the driver.
246 A network company shall provide an opportunity for an app-based driver to revoke a declination
247 not less than annually. A declination or revocation of a declination shall be effective 15 days
248 following an app-based driver's submission of a written notification to the network company.

249 (b) For purposes of this section and chapter 175M of the Massachusetts General Laws only, all
250 of the following shall apply:

251 (1) An app-based driver who has not declined coverage, or revoked a previous declination, shall
252 be considered a covered individual, as defined in section 1 of chapter 175M of the Massachusetts
253 General Laws, on the same basis as a covered contract worker, as defined in chapter 175M;
254 provided, however, that an app-based driver shall not be eligible for benefits until contributions
255 have been made on the driver's behalf for at least 2 quarters of the driver's last 4 completed
256 quarters.

257 (2) A network company shall be considered a covered business entity, as defined in chapter
258 175M of the Massachusetts General Laws, for the limited purpose of making contributions, as

259 defined in chapter 175M, to the Family and Employment Security Trust Fund for each app-based
260 driver who has not declined coverage in the family leave and medical leave programs pursuant to
261 subsection (a). Contributions under this paragraph shall be made in the same manner as provided
262 in section 6 of chapter 175M for covered contract workers, as defined in chapter 175M.

263 Section 9. Occupational Accident Insurance.

264 (a) For the purposes of this section, the following words shall have the following meanings:-

265 (1) " Average weekly earnings", the app-based driver' s total earnings from all network
266 companies during the 28 days prior to the accident divided by four.

267 (2) " Online ", means the time when an app-based driver is utilizing a network company's online-
268 enabled application or platform and can receive requests for transportation services or delivery
269 services from the network company, or during engaged time.

270 (3) "Maximum weekly compensation rate" , has the same meaning as provided in section 1 of
271 chapter 152 of the Massachusetts General Laws.

272 (4) "Minimum weekly compensation rate", has the same meaning as provided in section 1 of
273 chapter 152 of the Massachusetts General Laws.

274 (b) Each network company, within 240 days of the effective date of this act, shall purchase
275 occupational accident insurance, as described in this section, for all drivers who provide
276 transportation or delivery services through the network company's online-enabled application or
277 platform.

278 (c) Each network company shall file with the division of insurance, no later than 30 days after
279 the commencement of a new policy year, a copy of the policy it has purchased for DNC couriers
280 and TNC drivers, respectively. The division of insurance shall be treated by the insurer as a
281 certificate holder for purposes of receiving notice of cancellation of the policy.

282 (d) The occupational accident insurance policy required under subsection (b) shall cover medical
283 expenses and lost income resulting from injuries suffered while the app-based driver is online
284 with a network company's online-enabled application or platform. Policies shall at a minimum
285 include a total combined single limit of \$1,000,000 per accident and provide for payment of
286 benefits to a covered individual as follows:

287 (1) Coverage for medical expenses incurred, up to at least \$1,000,000 and for up to 156 weeks
288 following the injury;

289 (2) Continuous total disability payments, temporary total disability payments, and partial
290 disability payments for injuries that occur while the driver is online equal to 66 per cent of the
291 driver's average weekly earnings as of the date of injury but not more than the maximum weekly
292 compensation rate, unless the average weekly earnings of the driver is less than the minimum
293 weekly compensation rate, in which case the weekly compensation shall be equal to the driver's
294 average weekly earnings. Payments under this paragraph shall be made for up to the first 156
295 weeks following the injury;

296 (3) For the benefit of spouses, children, or other dependents of drivers, accidental death
297 insurance in the amount equal to 66 per cent of the driver's average weekly earnings as of the
298 date of injury but not more than the maximum weekly compensation rate, unless the average
299 weekly earnings of the driver is less than the minimum weekly compensation rate, in which case

300 the weekly compensation shall be equal to the driver' s average weekly earnings, times 156
301 weeks for injuries suffered by an app-based driver while the driver is online with the network
302 company's online-enabled application or platform that result in death; and

303 (4) When injuries suffered by an app-based driver while the app-based driver is online result in
304 death, an amount to pay for reasonable burial expenses not to exceed eight times the maximum
305 weekly compensation rate.

306 (e) Occupational accident insurance under subsection (d) of this section shall not be required to
307 cover an accident that occurs while online but outside of engaged time where the injured driver is
308 in engaged time on one or more other network company platforms or where the driver is engaged
309 in personal activities. If an accident is covered by occupational accident insurance maintained by
310 more than one network company, the insurer of the network company against whom a claim is
311 filed is entitled to contribution for the pro-rata share of coverage attributable to one or more other
312 network companies up to the coverages and limits in subsection (d).

313 (f) Any benefits provided to a driver under this section shall be considered amounts payable
314 under a driver's compensation law or disability benefit for the purpose of determining amounts
315 payable under any insurance provided under section 1131 of chapter 175 of the Massachusetts
316 General Laws or for personal injury protection, as defined in section 34A of chapter 90 of the
317 Massachusetts General Laws.

318 Section 10. Contract Formation and Termination.

319 (a) A contract between a network company and an app-based driver shall be made in writing,
320 which may be electronic.

321 (b) Every contract between an app-based driver and a network company with regard to deli very
322 services or transportation services shall be deemed to include terms incorporating the
323 requirements in sections 4 through 9 of this chapter. The parties to such contracts may agree to
324 supplemental terms which do not conflict with the terms deemed to be included by this chapter.

325 (c) A network company shall not terminate a contract with an app-based driver, except on
326 grounds specified in the contract or as is required by law.

327 (d) A contract between a network company and an app-based driver shall provide drivers whose
328 contracts are terminated by the network company the opportunity to appeal such termination
329 with the network company .

330 (e) A network company shall not, unless based upon a bona fide occupational qualification or
331 public or app-based driver safety need, refuse to contract with or terminate the contract of an
332 app-based driver based upon race, color, religious creed, national origin, sex, gender identity,
333 genetic information, ancestry, status as a veteran, pregnancy or a condition related to said
334 pregnancy including, but not limited to, lactation or the need to express breast milk for a nursing
335 child, or sexual orientation, which shall not include persons whose sexual orientation involves
336 minor children as the sex object.

337 Section 11. Interpretation of this chapter.

338 (a) This chapter shall govern the contract -based civil relationship between network-companies
339 and app-based drivers.

340 (b) Notwithstanding any general or special law to the contrary, compliance with the provisions of
341 this chapter shall not be interpreted or applied, either directly or indirectly, in a manner that treats

342 network companies as employers of app-based drivers, or app-based drivers as employees of
343 network companies, and any party seeking to establish that a person is not an app-based driver
344 bears the burden of proof

345 (c) Nothing in this Act shall be construed to impair any contracts in existence as of its effective
346 date.

347 Section 12. Effective Date.

348 (a) Except as provided in subsection (b), chapter 159AA of the Massachusetts General Laws
349 shall take effect on the later of January 1, 2023, or as provided in Article 48 of the Amendments
350 to the Massachusetts Constitution, as amended.

351 (b) Notwithstanding subsection (a), sections 3 and 5 of chapter 159AA shall take effect as
352 provided in Article 48 of the Amendments to the Massachusetts Constitution, as amended.

FIRST TEN SIGNERS

<u>NAME</u>	<u>RESIDENCE</u>	<u>CITY OR TOWN</u>
Christina M. Ellis-Hibbet	563 Ashmont Street	Boston
Katherine Mary Witman	658 Main Street	Medfield
Abigail Kennedy Horrigan	114 Eastern Avenue	Woburn
Richard M. Power	112 Summer St #2	Norwood
Meaghan J. Borkowski	20 Kings Row	North Reading
Chad B. Chokel	552 Columbus Avenue #4	Boston
Daniel Svirsky	104 Coolidge Hill Road #7	Watertown
Michael Strickman	16 Ware Street	Weston
Marcus Alan Cole	327 Seaver Street #1	Boston
James William Isaac Hills	193 Norfolk Street #2	Boston

CERTIFICATE OF THE ATTORNEY GENERAL.

September 1, 2021.

Honorable William Francis Galvin
Secretary of the Commonwealth
One Ashburton Place, Room 1705
Boston, Massachusetts 02108

Re: Initiative Petition No. 21-11: A Law Defining and Regulating the
Contract-Based Relationship Between Network Companies and App-Based
Drivers (Version A)

Dear Secretary Galvin:

In accordance with the provisions of Article 48 of the Amendments to the Massachusetts Constitution, I have reviewed the above-referenced initiative petition, which was submitted to me on or before the first Wednesday of August of this year.

I hereby certify that this measure is in proper form for submission to the people; that the measure is not, either affirmatively or negatively, substantially the same as any measure which has been qualified for submission or submitted to the people at either of the two preceding biennial state elections; and that it contains only subjects that are related or are mutually dependent and which are not excluded from the initiative process pursuant to Article 48, the Initiative, Part 2, Section 2.

In accordance with Article 48, I enclose a fair, concise summary of the measure.

Sincerely,

MAURA HEALEY,
Attorney General.

SUMMARY OF 21-11

This proposed law would classify drivers for rideshare and delivery companies who accept requests through digital applications as “independent contractors,” and not “employees” or “agents,” for all purposes under Massachusetts law. The proposed law would establish alternative minimum compensation and benefits for these “independent contractors.”

The proposed law would apply to drivers for rideshare and delivery companies who use digital applications and who are not (1) required to work specific days or hours; (2) required to accept specific requests; (3) restricted from working for multiple rideshare or delivery companies; or (4) restricted from working in any other lawful occupation or business. Drivers who meet these conditions would be deemed to be “independent contractors,” and not “employees” or “agents,” for all purposes under Massachusetts law.

The proposed law would require rideshare and delivery companies to provide drivers with a guaranteed amount of minimum compensation, equal to 120% of the Massachusetts minimum wage for time spent completing requests for transportation or delivery, plus an inflation-adjusted per-mile amount (starting at 26 cents) for each mile driven in a privately-owned vehicle while completing a request. The minimum compensation calculation would not include time spent by a driver between requests. A driver whose earnings, not including tips and gratuities, fall below the minimum compensation amount would be paid the difference to be brought up to the minimum compensation amount.

The proposed law would require rideshare and delivery companies to provide drivers with paid sick time, to treat drivers as eligible to take medical or family leave under the Massachusetts Paid Family and Medical Leave Act, and to provide healthcare stipends to some

drivers. Drivers would earn a minimum of 1 hour of paid sick time for every 30 hours spent completing requests for transportation or delivery.

The proposed law would require rideshare and delivery companies to purchase accident insurance for drivers who are injured or killed while fulfilling or accepting requests and not engaging in personal activities. Companies would be required to provide drivers with mandatory safety training.

The proposed law would prohibit rideshare and delivery companies from terminating the contract of a driver, or refusing to contract with a driver, based on race, sex, sexual orientation, or other protected characteristics unless based upon a bona fide occupational qualification or a safety need. Companies would be required to provide a driver who is terminated with an opportunity to appeal their termination.