

The Commonwealth of Massachusetts

INITIATIVE PETITION OF ROXANA LORENA RIVERA AND OTHERS

OFFICE OF THE SECRETARY.

BOSTON, JANUARY 16, 2024.

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 “An Act Giving Transportation Network Drivers the Option to Form a Union and Bargain Collectively,” signed by ten qualified voters and filed with this department on or before December 6, 2023, together with additional signatures of qualified voters in the number of 83,788, 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. 4253

The Commonwealth of Massachusetts

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

An Act giving transportation network drivers the option to form a union and bargain collectively.

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

1 This Act, which adds Chapter 150F to the General Laws, creates the opportunity for
2 workers in the digital transportation industry to form transportation network driver organizations
3 and to negotiate on an industry-wide basis with companies in this industry on recommendations
4 to the commonwealth that raise standards for the terms and conditions of work in this industry.
5 There shall be a new Chapter 150F that shall provide as follows:

6 Section 1. Findings and policy.

7 A. The commonwealth of Massachusetts recognizes that technological advancement
8 has generated new "digital marketplaces" in the transportation sector, in which companies
9 connect, through electronic media, customers seeking passenger transportation services to
10 persons willing to supply that transportation service. These persons often suffer poor pay,
11 inadequate health coverage, and irregular or inadequate working hours. It is hereby declared that
12 the best interests of the commonwealth are served by providing transportation network drivers
13 the opportunity to self-organize and designate representatives of their own choosing, and to
14 bargain collectively in order to obtain sustainable wages, benefits and working conditions,

15 subject to approval and ongoing supervision by the commonwealth. It is further declared that the
16 best interests of the commonwealth are served by the prevention or prompt resolution of disputes
17 between rideshare network companies and the persons who supply the labor to effectuate those
18 services. This chapter shall be deemed an exercise of the police power of the commonwealth,
19 and shall be liberally construed for the accomplishment of its purposes.

20 B. For the reasons set forth in subdivision A, it is the public policy of the
21 commonwealth to displace competition with regulation of the terms and conditions of work for
22 transportation network drivers set forth herein; and, consistent with this policy, to exempt from
23 federal and commonwealth antitrust laws, the formation of transportation network driver
24 organizations and multi-company associations for the purposes of collective bargaining between
25 transportation network companies and transportation network drivers on an industry-wide basis,
26 and to supervise, evaluate, and if approved, implement the resulting negotiated recommendations
27 concerning the terms and conditions of work for all transportation network drivers in an industry
28 when those recommendations are found by the Secretary of Labor to advance the public purposes
29 stated in this section and are then made binding, regardless of the competitive consequences
30 thereof.

31 1. The commonwealth intends that transportation network drivers have the right to
32 form, join, or assist labor organizations, to be represented through representatives of their own
33 choosing, and to engage in other concerted activities for the purpose of bargaining with
34 transportation network companies and create negotiated recommendations, which shall form the
35 basis for industry regulations.

36 2. The commonwealth intends transportation network companies have the right to

37 form multi-company associations to represent them while bargaining with a
38 transportation network driver organization to create negotiated recommendations, which shall
39 form the basis for industry regulations.

40 3. The intent and policy of the commonwealth is for the statutory and non-statutory
41 labor exemptions from the federal antitrust laws and analogous commonwealth laws, to apply to
42 transportation network drivers who choose to form, join or assist labor organizations in labor
43 activity in Massachusetts permitted hereby.

44 4. The commonwealth intends in authorizing and regulating transportation network
45 companies and transportation network drivers engaging in labor activity permitted hereby that
46 state action immunity apply to this statute, and that such companies and drivers be immune from
47 the federal and commonwealth antitrust laws to the fullest extent possible in their conduct
48 pursuant to this statute.

49 5. The commonwealth will actively supervise the labor activity permitted hereby
50 conducted by transportation network companies and transportation network drivers pursuant to
51 this statute to ensure that the conduct permitted by the statute protects the rights of workers and
52 companies, encourages collective negotiation and labor peace, and otherwise advances the
53 purposes of this Act.

54 Section 2. Definitions.

55 A. "Active transportation network driver" or "active TND" means a transportation
56 network driver so designated pursuant to the following process: Upon request by the board, and
57 at the completion of each calendar quarter thereafter, each transportation network company
58 ("TNC") shall provide the board with information that identifies all transportation network

59 drivers ("TND") who completed five or more rides that originated in the commonwealth of
60 Massachusetts on the TNC's platform in the previous six months. Each TNC shall provide this
61 information within two weeks after the end of each calendar quarter (March 31st, June 30th,
62 September 30th, December 31st). Such information shall include only the name of the TND, the
63 TND driver's license number, and the number of rides the TND completed through the TNC's
64 platform in the previous six months. The board shall combine the data provided by all TNCs to
65 determine the distribution of the number of rides completed by all TNDs for which data has been
66 submitted, and then shall determine the median number of rides across TNDs for whom data has
67 been submitted in the previous six months. Any TND who completed more than the median
68 number of rides shall be considered an active transportation network driver in the rideshare
69 industry.

70 B. "Board" means the commonwealth employment relations board created by section
71 9R of Chapter 23 of the General Laws.

72 C. "Company union" means any committee, employee representation plan, or
73 association of workers or others that exists for the purpose, in whole or in part, of dealing with
74 TNCs concerning grievances or terms and conditions of work for TNDs, which (1) a TNC has
75 initiated or created or whose initiation or creation it has suggested, participated in or in the
76 formulation of whose governing rules or policies or the conducting of whose management,
77 operations or elections the TNC participates in or supervises; or (2) which the TNC maintains,
78 finances, controls, dominates, or assists in maintaining or financing unless required to do so by
79 this chapter or any regulations implementing this chapter, whether by compensating anyone for
80 services performed in its behalf or by donating free services, equipment, materials, office or
81 meeting space or anything else of value, or by any other means. A TND organization shall not be

82 deemed a company union only because it has negotiated or been granted the right to designate
83 workers to be released with pay for the purpose of providing representational services in labor-
84 management affairs on behalf of workers represented by the TND organization, or where, in the
85 course of providing representational services to workers for whom it is the exclusive bargaining
86 representative, a TNC allows agents of the TND organization to meet with workers at the TNC's
87 premises.

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

90 E. "Network company" means a TNC, except that a business entity that maintains an
91 online- enabled application or platform that meets all three of the following tests is not a network
92 company: (1) it is used to facilitate primarily non-rideshare services within the commonwealth of
93 Massachusetts, (2) less than seven and one-half percent of service requests fulfilled through the
94 platform on an annual basis are for rideshare services, and

95 (3) fewer than ten thousand service requests fulfilled through the platform in any year are
96 for rideshare services. For purposes of this paragraph, all applications or platforms used by
97 corporate entities under common control shall be considered a single application or platform.

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

102 G. "Transportation network driver organization" or "TND organization" means any
103 organization in which network drivers participate, and which exists and is constituted for the

104 purpose, in whole or in part, of collective bargaining, or of dealing with network companies
105 concerning grievances, terms or conditions of work, or of other mutual aid or protection and
106 which is not a company union as defined herein.

107 H. "Transportation network company" or "TNC" means a transportation network
108 company as described by § 1 of Chapter 159A1/2 of the General Laws.

109 I. "Unfair work practices" means only those unfair work practices listed in section
110 4, below.

111 Section 3. Rights of TNDs.

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

120 Section 4. Unfair work practices.

121 A. It shall be an unfair work practice for a TNC to:

122 1. fail or refuse to provide the board with an accurate list of the names, trips made,
123 and contact information for TNDs, as required by this chapter;

124 2. refuse to negotiate in good faith with a certified or recognized TND organization
125 representing TNDs engaged with such TNC concerning wages, hours, or terms and conditions of
126 work. Since the obligation to negotiate in good faith includes an obligation to provide requested
127 information that has a bearing on the bargaining process, it is also an unfair work practice for a
128 TNC to refuse to provide a certified or recognized TND organization with relevant information
129 requested by the TND organization for the performance of its duties as the TND's bargaining
130 representative;

131 3. refuse to provide a TND organization with a list of the names, addresses and
132 telephone numbers of TNDs where the provision of such list is required by this chapter;

133 4. refuse to continue all the terms of a determination of terms and conditions of work
134 prescribed by the Secretary of Labor pursuant to this chapter until a new determination is
135 prescribed;

136 5. lockout TNDs. The term "lockout" shall mean, for the purposes of this section, a
137 refusal by a TNC to permit a TND normal access to the TNC's means of connecting TNDs to
138 individuals seeking transportation service as a result of a dispute with such workers or a TND
139 organization representing such workers that affects wages, hours and other terms and conditions
140 of work of such workers, provided, however, that a lockout shall not include a termination of
141 engagement of a worker for good cause that does not involve such worker exercising any rights
142 guaranteed by this chapter

143 6. To spy upon or keep under surveillance, whether directly or through agents or any
144 other person, any activities of TNDs, those workers' representatives, or any other person, or any

145 activities of such workers or those workers' representatives in the exercise of the rights
146 guaranteed by this chapter.

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

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

154 (b) by offering incentives to TNDs to join any such organization;

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

161 8. To require a TND to join any company union or TND organization or to require a
162 TND to refrain 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, tenure, or in any term or condition of
165 employment or engagement.

166 10. To discharge or otherwise discriminate against a TND because they have signed or
167 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 certified
178 or recognized representative of the company's workers. Since the obligation to negotiate in good
179 faith includes an obligation to provide requested information that relates to the bargaining
180 process, it is also an unfair work practice for a certified or recognized TND to refuse to provide
181 information requested by a TNC organization that is relevant to the bargaining process;

182 2. restrain or coerce TNDs in the exercise of the rights guaranteed by this chapter;
183 provided, however, that this paragraph shall not impair the right of a TND organization to
184 prescribe its own rules with respect to the acquisition or retention of membership in the
185 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 4. restrain or coerce a TNC in the selection of its representatives for the purpose of
189 bargaining or the adjustment of grievances.

190 C. Prevention of unfair work practices.

191 1. The board is empowered and directed, as hereinafter provided, to prevent any
192 TNC and any TND organization, from engaging in any unfair work practice described in this
193 chapter. This power shall not be affected or impaired by any means of adjustment, mediation or
194 conciliation in labor disputes that have been or may hereafter be established by law or by the
195 determination provided for in section 6(F), below. To prevent unfair work practices, each TNC
196 shall, at least once each year, send a text message and an e-mail to each of its active TNDs in a
197 form determined by the board notifying the TNDs of their rights under this chapter, and the
198 procedure for filing an unfair work practice charge. The board shall also post a copy of this
199 notice on its website.

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

208 complained of shall have the right to file an answer to the original or amended complaint and to
209 appear in person or otherwise and give testimony at the place and time fixed in the complaint. In
210 the discretion of the member, agent or agency conducting the hearing or the board, any other
211 person may be allowed to intervene in the said proceeding and to present testimony. In any such
212 proceeding, the rules of evidence prevailing in courts of law or equity shall not be controlling.

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

229 (d) requiring respondent to provide the complainant with a list of all TNDs, together with
230 those workers' physical and e-mail addresses and known telephone numbers; and (e) requiring

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

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

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

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

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

256 7. Injunctive relief.

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

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

274 not be liable for any damages or costs that may have been sustained by reason of any injunctive
275 relief ordered. If the board fails to act within ten days as provided herein, the board, for purposes
276 of review, shall be deemed to have made a final order determining not to seek injunctive relief.
277 In the case of a TNC's failure to provide an accurate list of names and addresses of TNDs,
278 immediate and irreparable injury, loss, or damage shall be presumed.

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

289 (d) A decision on the merits of the unfair work practice charge by the board finding
290 an unfair work practice to have occurred shall continue the injunctive relief until either: (i) the
291 respondent implements the remedy, or (ii) the respondent successfully moves in court to set aside
292 the board's order, pursuant to provisions of Chapter 30A of the General Laws.

293 (e) Any injunctive relief in effect pending a decision by the board (i) shall expire
294 upon a decision by the board finding no unfair work practice to have occurred, of which the
295 board shall notify the court within two business days, or (ii) shall remain in effect only to the

296 extent it implements any remedial order issued by the board in its decision, of which the board
297 shall notify the court within two business days.

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

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

303 Section 5. Representatives.

304 A. After receiving the information identified in Section 2(A) from each TNC at the
305 conclusion of each calendar quarter (March 31, June 30, September 30, December 31), the board
306 shall provide each TNC with the names of the active TNDs who have driven for that TNC, and
307 each TNC shall have 30 days to submit to the board, in an electronic format to be determined by
308 the board, the phone numbers, mailing addresses, and email addresses for each active TND.
309 These records shall not be subject to disclosure pursuant to Chapter 66 of the General Laws.

310 B. Bargaining unit. For purposes of this chapter, each TND shall be included in an
311 industry-wide bargaining unit of all TNDs.

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

317 one year of the date the TND organization submits the evidence to the board. Execution may be
318 electronic.

319 D. Representative status.

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

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

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

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

342 4. Determination of Exclusive Representative Status in the Event of a Dispute
343 among TND organizations.

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

362 representative. For purposes of this provision, the operative list of active TNDs shall be based on
363 the most recent quarterly list provided by the TNCs in accordance with section 5(A).

364 (b) A TND organization certified as the exclusive bargaining representative shall
365 have the exclusive authority to represent the TNDs in the bargaining unit, without challenge by
366 another TND organization, for the greater of (i) one year following certification; or (ii) the length
367 of time that a final determination rendered by the Secretary of Labor under section 6(F) is in
368 effect, provided that such period shall not be longer than three years following the date of
369 issuance of such final determination. During the times when an exclusive bargaining
370 representative is subject to challenge, TNDs may file for a decertification election upon a
371 showing that at least twenty-five percent of the active TNDs in the bargaining unit have
372 demonstrated support for the decertification. The board will then schedule an election to
373 determine whether the TND organization has retained its status as exclusive bargaining
374 representative. The TND organization shall retain its status as exclusive bargaining
375 representative if it receives a majority of valid votes cast by active TNDs in the bargaining unit.

376 (c) If a TND organization has been designated the exclusive bargaining
377 representative with respect to a bargaining unit, only that TND organization shall be entitled to
378 (i) receive from the TNCs a list of all of their TNDs, together with phone numbers, mailing
379 addresses, and electronic mail addresses; and (ii) shall be entitled to engage in bargaining with
380 the TNCs for recommendations to the Secretary of Labor concerning wages, benefits and terms
381 and conditions of work of the TNDs.

382 (d) Dues Deduction. A TND organization that has been designated as the exclusive
383 bargaining representative with respect to the bargaining unit shall have a right to voluntary

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

393 Section 6. Bargaining, Impasse resolution procedures, and final determination by the
394 Secretary of Labor.

395 A. Once the board determines that a TND organization is the exclusive bargaining
396 representative for the bargaining unit, the board shall notify all TNCs, and all TNCs shall be
397 required to bargain with the exclusive bargaining representative concerning wages, benefits, and
398 terms and conditions of work. The terms and conditions to be bargained include, but are not
399 limited to, the criteria for deactivating a TND and a dispute resolution procedure for resolving
400 claims alleging unjust deactivation. To facilitate negotiations, the TNCs may form an industry
401 association to negotiate on their behalf. If the TNCs choose not to form an association, any
402 recommended agreement must be approved by (i) at least two industry member TNCs and (ii)
403 member TNCs representing at least eighty percent of the market share of that industry in
404 Massachusetts, with votes determined in proportion to the number of rides completed by TNDs
405 contracting directly with the TNC in the two calendar quarters preceding the recognition of the
406 certified representative.

407 B. Once the TND organization and the TNCs have reached a set of negotiated
408 recommendations for the industry, the negotiated recommendations shall be submitted by the
409 TND organization to a vote by all TNDs in the industry who have completed at least one
410 hundred trips in the previous quarter. If approved by a majority of TNDs who vote, the
411 negotiated recommendations shall be submitted to the Secretary of Labor for approval. If a
412 majority of valid votes cast by the TNDs are not in favor of the negotiated recommendations, the
413 transportation network worker organization and the TNCs will resume bargaining.

414 C. For purposes of this section, an impasse may be deemed to exist if the TNCs and
415 exclusive bargaining representative fail to achieve agreement by the end of a one hundred eighty-
416 day period from the date a TND organization has been designated as the exclusive bargaining
417 representative or from the expiration date of a prior determination by the Secretary of Labor as
418 provided for in paragraph F, below.

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

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

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

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

429 3. Upon timely petition of either party, the board shall refer the dispute to an
430 arbitrator as hereinafter provided.

431 (a) Prior to submitting the dispute to an arbitrator, the board shall conduct an election
432 among all TNDs in the industry who have completed at least one hundred trips in the previous
433 quarter. The TNDs will choose between submitting the dispute to the arbitrator or decertifying
434 the exclusive bargaining representative. If the majority of eligible votes cast are for
435 decertification the exclusive bargaining representative shall be decertified and any existing
436 regulations shall remain in place until they expire as provided in paragraph F below.

437 (b). If a majority of TNDs who vote choose to have an arbitrator appointed, the exclusive
438 bargaining representative shall notify the board of the need to appoint an arbitrator, and the board
439 shall notify the TNCs of this request. Each of the two groups of affected parties (affected TNCs
440 being one group, and the exclusive bargaining representative being the other group) shall have an
441 equal say in the selection of the arbitrator and each of the two groups shall share equally the cost
442 of the arbitrator. If the parties are unable to agree upon the arbitrator within seven days after the
443 board notifies the TNCs of the need to appoint an arbitrator, the board shall submit to the parties
444 a list of qualified, disinterested persons for the selection of an arbitrator. A representative of each
445 of the two groups shall alternately strike from the list one of the names with the order of striking
446 determined by lot, until the remaining one person shall be designated as the arbitrator. Each
447 group shall select its representative for this purpose as it sees fit. A group's failure to agree upon
448 the designation of its representative shall result in the failure of the striking procedure, but shall
449 not impede the board's appointment of the arbitrator upon such failure. The striking process shall
450 be completed within five days of receipt of the board's list. The representatives who undertake
451 the striking shall notify the board of the designated arbitrator. In the event the parties are unable

452 to select the arbitrator within five days following receipt of this list, the board shall appoint the
453 arbitrator.

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

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

466 (e) Any TNC engaging less than fifty TNDs in the bargaining unit shall have the
467 opportunity to make a written submission to the arbitrator.

468 (f) The arbitrator shall make a just and reasonable determination of the matters in
469 dispute, and shall issue a determination that shall apply to all TNCs and the exclusive bargaining
470 representative. In arriving at such determination, the arbitrator shall specify the basis for his or
471 her findings, taking into consideration, in addition to any factors recommended by the parties
472 that the arbitrator finds to be consistent with this chapter, including the following:

473 i. whether the wages, benefits, hours, and conditions of work

474 of the TNDs achieve the policy goals set forth subdivision A of Section I. This amount
475 must take into account the real cost of living, it may substantially exceed any statutory minimum
476 wage, and should be a sufficient amount such that the TNDs do not need to rely upon any public
477 benefits;

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

481 iii. the financial ability of the affected TNCs to pay for the compensation and benefits
482 in question and the impact on the delivery of services provided by the companies;

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

486 v. comparison of peculiarities in regard to other trades or professions, including
487 specifically, (a) hazards of work; (b) physical qualifications; (c) educational qualifications; (d)
488 mental qualifications; and (e) job training and skills.

489 F. Any recommendations agreed upon between TNCs and a TND organization
490 acting as exclusive bargaining representative of TNDs in the bargaining unit and/or any
491 determination reached by an arbitrator under this chapter shall be subject to review and approval
492 by the Secretary of Labor. In deciding whether to grant approval to the arbitrator's
493 recommendations, the Secretary of Labor's decision shall be based on the factors specified in
494 paragraph E(3)(f), above, and the policies set forth in section I. In deciding whether to approve

495 such agreement or determination, the Secretary of Labor shall afford the exclusive
496 representative, all TNCs, and TNDs no more than thirty days to submit comments and arguments
497 concerning whether approval is warranted. Within sixty days of the deadline for submitting
498 comments, the Secretary of Labor shall approve or disapprove the agreement or determination.
499 In the event of disapproval, the Secretary of Labor may make recommendations for amendments
500 to the agreement or determination that would cause the Secretary of Labor to approve and afford
501 the parties an opportunity to respond to those recommendations. The final determination by the
502 Secretary of Labor shall include a date following which new terms may be set for the bargaining
503 unit which date shall not be more than three years following the date of the issuance of the
504 determination. If during the three year period (or any lesser period that the Secretary of Labor
505 sets as a duration for the final determination), the Secretary of Labor determines that market
506 conditions have changed, the Secretary of Labor shall give the exclusive bargaining
507 representative, all TNCs, and TNDs the opportunity to submit comments and arguments
508 concerning whether the final determination should be modified, and after receiving those
509 comments, the Secretary of Labor may modify the final determination.

510 Section 7. Minimum Labor Standards. No agreement or determination made pursuant to
511 this chapter shall diminish or erode any minimum labor standard that would otherwise apply to a
512 TND.

513 Section 8. Preemption. This law shall not preempt any commonwealth enactment which
514 provides greater benefits or protection to a TND.

515 Section 9. Judicial Review.

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

524 B. Final orders of the Secretary of Labor pursuant to section 6(F) of this chapter shall
525 be conclusive against all affected TND organizations and all TNCs in the industry unless
526 reversed or modified in proceedings for enforcement or judicial review as herein provided. Such
527 final orders shall be subject to review in accordance with the provisions of section fourteen of
528 chapter 30A of the General Laws, provided, however, that the determination of the Secretary of
529 Labor shall only be overturned if it is found to be arbitrary and capricious.

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

532 Section 10. Rules and Regulations.

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

535 Section 11. Conflict of Laws.

536 In the event of any conflict with Chapter 150A of the General Laws, the provisions of
537 this Chapter shall prevail.

538 Section 12. Severability.

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

FIRST TEN SIGNERS

<u>NAME</u>	<u>RESIDENCE</u>	<u>CITY OR TOWN</u>
ROXANA LORENA RIVERA	15 MENTON STREET	BOSTON
ALEJANDRA TERRERO	36 STRAWBERRY LANE	ABINGTON
RAHIM ABBASI	29 EDISON GREEN #3	BOSTON
CESAR RAMIREZ	495 COLUMBIA ROAD #2	BOSTON
NETO MIGUEL ROSA	206 PRATT AVENUE #14	LOWELL
DOMINGO ALBERTO CASTILLO	85 ARCHDALE ROAD #313	BOSTON
OMER O. ELTOM	8 JETTE COURT #815	BOSTON
YASSIR OSMAN MAREI	9 MAPLE PLACE	BOSTON
MAHAD OMAR	30 EVERETT GAYLORD BOULEVARD #23	WORCESTER
DANIEL R. NICOLAI	73 ROBERT STREET #1	BOSTON

CERTIFICATE OF THE ATTORNEY GENERAL.

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

RE: Initiative Petition No. 23-25: An Act giving transportation network
drivers the option to form a union and bargain collectively

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,

ANDREA JOY CAMPBELL,
Attorney General.

Summary of 23-25

The proposed law would provide Transportation Network Drivers (“Drivers”) with the right to form unions (“Driver Organizations”) to collectively bargain with Transportation Network Companies (“Companies”)-which are companies that use a digital network to connect riders to drivers for pre-arranged transportation-to create negotiated recommendations concerning wages, benefits and terms and conditions of work. Drivers would not be required to engage in any union activities. Companies would be allowed to form multi-Company associations to represent them when negotiating with Driver Organizations. The state would supervise the labor activities permitted by the proposed law and would have responsibility for approving or disapproving the negotiated recommendations. The proposed law would define certain activities by a Company or a Driver Organization to be unfair work practices. The proposed law would establish a hearing process for the state Employment Relations Board (“Board”) to follow when a Company or Driver Organization is charged with an unfair work practice. The proposed law would permit the Board to take action, including awarding compensation to adversely affected Drivers, if it found that an unfair work practice had been committed. The proposed law would provide for an appeal of a Board decision to the state Appeals Court.

This proposed law also would establish a procedure for determining which Drivers are Active Drivers, meaning that they completed more than the median number of rides in the previous six months. The proposed law would establish procedures for the Board to determine that a Driver Organization has signed authorizations from at least five percent of Active Drivers, entitling the Driver Organization to a list of Active Drivers; to designate a Driver Organization as the exclusive bargaining representative for all Drivers based on signed authorizations from at least twenty-five percent of Active Drivers; to resolve disputes over exclusive bargaining status, including through elections; and to decertify a Driver Organization from exclusive bargaining status. A Driver Organization that has been designated the exclusive bargaining representative would have the exclusive right to represent the Drivers and to receive voluntary membership dues deductions. Once the Board determined that a Driver Organization was the exclusive bargaining representative for all Drivers, the Companies would be required to bargain with that Driver Organization concerning wages, benefits and terms and conditions of work. Once the Driver Organization and Companies reached agreement on wages, benefits, and the terms and conditions of work, that agreement would be voted upon by all Drivers who has completed at least 100 trips the previous quarter. If approved by a majority of votes cast, the recommendations would be submitted to the state Secretary of Labor for approval and if approved, would be effective for three years. The proposed law would establish procedures for the mediation and arbitration if the Driver Organization and Companies failed to reach agreement within a certain period of time. An arbitrator would consider factors set forth in the proposed law, including whether the wages of Drivers would be enough so that Drivers would not need to rely upon any public benefits. The proposed law also sets out procedures for the Secretary of Labor’s review and approval of recommendations negotiated by a Driver Organization and the Companies and for judicial review of the Secretary’s decision. The proposed law states that neither its provisions, an agreement nor a determination by the Secretary would be able to lessen labor standards established by other laws. If there were any conflict between the proposed law and existing Massachusetts labor relations law, the proposed law would prevail. The Board would

make rules and regulations as appropriate to effectuate the proposed law. The proposed law states that, if any of its parts were declared invalid, the other parts would stay in effect.