

**HOUSE . . . . . No. 1108**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Daniel Cahill*

*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 portable benefit accounts for app-based-delivery drivers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Daniel Cahill</i>	<i>10th Essex</i>	<i>1/17/2025</i>

**HOUSE . . . . . No. 1108**

By Representative Cahill of Lynn, a petition (accompanied by bill, House, No. 1108) of Daniel Cahill for legislation to establish portable benefit accounts for app-based-delivery drivers. Financial Services.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Fourth General Court  
(2025-2026)**

An Act establishing portable benefit accounts for app-based-delivery drivers.

*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. The General Laws, as appearing in the 2020 Official Edition, are hereby  
2 amended by inserting after chapter 175M the following chapter:-

3 CHAPTER 175N.

4 PORTABLE BENEFITS FOR APP-BASED-DELIVERY DRIVERS

5 Section 1. The General Court hereby finds and declares that:

6 App-based-delivery drivers are providing essential services to their communities. App-  
7 based-delivery drivers retain full control over where, when, and how they perform app-based  
8 services/work and are therefore classified as independent contractors.

9 App-based-delivery drivers may not be entitled to some of the protections of an  
10 employee. In order to protect these workers, a portable benefits framework for app-based-  
11 delivery drivers is created to enable the provision of benefits, such as income replacement, health

12 and wellness, and others, to one worker by multiple delivery platforms. In addition, delivery  
13 network companies shall be required to purchase occupational accident insurance and maintain  
14 automobile insurance coverage for app-based-delivery workers.

15 For the foregoing reasons, it is the General Court’s intent that the Director’s actions shall  
16 displace competition among delivery network companies in the provision of benefits to app-  
17 based-delivery drivers for the purpose of achieving the goals of creating a portable benefits  
18 framework for app-based-delivery drivers and occupational accident insurance and automobile  
19 insurance requirements for delivery network companies.

20 Section 2. For the purposes of this chapter, the following words shall have the following  
21 meanings:-

22 “Allocation date”, the date following the last day of a quarter on which a delivery  
23 network company makes a quarterly deposit into a portable benefit account, which in no case  
24 shall be more than 30 days after such last day.

25 “App-based-delivery driver”, an individual who provides delivery services within the  
26 Commonwealth through a delivery network company’s online-enabled application or platform.

27 “Delivery network company”, a business entity that maintains an online-enabled  
28 application or platform used to facilitate delivery services within the Commonwealth.

29 “Delivery services”, the fulfillment of a delivery request, meaning the pickup from any  
30 location of any item or items and the delivery of the items using a passenger vehicle, bicycle,  
31 scooter, walking, public transportation, or other similar means of transportation, to a location  
32 selected by the customer located within 50 miles of the pickup location. Delivery services may

33 include the selection, collection, or purchase of items by an app-based-delivery driver, as well as  
34 other tasks incidental to a delivery.

35 “Earnings”, all earnings, including incentives and bonuses: (a) paid to the app-based-  
36 delivery driver by the delivery network company; or (b) remitted to the app-based-delivery  
37 driver from payment facilitated by a delivery network company, but not including amounts  
38 charged for fees, taxes, or other similar charges. Earnings does not include any payments for  
39 gratuities.

40 “Earnings loss”, a decrease of 50 per cent or more in an app-based-delivery driver’s  
41 monthly earnings from the previous month that results through no fault of the app-based-delivery  
42 driver.

43 “Eligibility date”, the first day of a quarter, occurring after December 31, 2023, during  
44 which an app-based-delivery driver qualifies as an eligible driver.

45 “Eligible driver”, an app-based-delivery driver whose earnings from, or facilitated by, a  
46 delivery network company total at least \$1,000 during a quarter. An app-based-delivery driver  
47 who qualified as an eligible driver of a delivery network company under this definition shall  
48 remain an eligible driver of the delivery network company for three quarters following the initial  
49 quarter of eligibility, regardless of the amount of earnings the app-based-delivery driver has  
50 during those three quarters. After such time, any such individual may requalify as an eligible  
51 driver of the delivery network company at such time as the app-based-delivery driver earnings  
52 paid or facilitated by the delivery network company total or exceed \$1,000 in a quarter.

53 “Permissible use”, the use of funds to,

54 (a) compensate for lost income due to:  
55 (1) an illness or accident;  
56 (2) the birth or adoption of a child of the app-based-delivery driver;  
57 (3) a federal or governor-declared state of emergency;  
58 (4) an earnings loss;  
59 (b) transfer funds to an individual retirement account; or  
60 (c) cover expenses incurred for premiums for health insurance coverage in the individual  
61 market.

62 “Portable benefit account”, a financial account (a) from which amounts may be  
63 withdrawn for a permissible use; (b) that meets the requirements of this chapter; and (c) that is  
64 administered by a portable benefit account provider.

65 “Portable benefit account provider”, a bank, as defined in section 1 of chapter 167, or  
66 another person who demonstrates to the satisfaction of the commissioner of banks that the  
67 manner in which such bank or person will administer the portable benefit account will be  
68 consistent with the portable benefit account requirements under this chapter.

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

71 Section 3. (a) A delivery network company shall, by each allocation date, contribute to a  
72 portable benefit account of an eligible driver an amount equal to 4 per cent of an eligible driver’s  
73 earnings in the immediately preceding quarter earned through that delivery network company.

74 (b) The first contribution to an eligible driver's portable benefit account by a delivery  
75 network company under subsection (a) shall be made on the first allocation date following such  
76 individual's eligibility date with respect to the delivery network company.

77 (c) Each delivery network company shall allow an eligible driver to elect to also  
78 contribute to the eligible driver's portable benefit account, and shall deduct the amount elected  
79 by the eligible driver from the individual's earnings and designate such amount for contribution  
80 to the portable benefit account.

81 (d) A delivery network company shall deposit any deductions elected under this  
82 subsection (c) into the eligible driver's portable benefit account on a quarterly basis, no later than  
83 7 days following the allocation date for the quarter.

84 (e) Contributions made by a delivery network company under subsections (a) or (c) shall  
85 be made in cash and, with respect to contributions made under subsection (a), come from the  
86 delivery network company's general assets and not be deducted or drawn from an eligible  
87 driver's earnings.

88 (f) Any contribution under subsections (a) or (c) shall be made to the default portable  
89 benefit account the delivery network company elects on behalf of the eligible driver, unless an  
90 eligible driver elects a different portable benefit account and informs the delivery network  
91 company at least 30 days prior to the allocation date.

92 (g) Each delivery network company shall ensure that the default portable benefit account  
93 offered by the delivery network company makes available at least 3 individual retirement  
94 account providers from which an eligible driver may select.

95 (h) Notwithstanding any other provision of this chapter, transfers made from a portable  
96 benefit account to an individual retirement account offered under the portable benefit account  
97 shall not exceed the annual contribution limit established by the Internal Revenue Service for  
98 contributions to an individual retirement account for the tax year in which the transfer is made.

99 Section 4. (a) An eligible driver who has deposited funds in a portable benefit account  
100 may receive a distribution of amounts for a permissible use.

101 (b) Assets in a portable benefit account shall not be commingled with other property  
102 except in a common trust fund or common investment fund.

103 (c) In the case of the death of any eligible driver, the entire balance remaining in the  
104 portable benefit account of the individual shall be immediately distributed in the form of a direct  
105 trustee-to-trustee transfer to the individual retirement account of the individual under the portable  
106 benefit account.

107 Section 5. (a) A portable benefit account shall be exempt from taxation under chapters 58  
108 to 65c, inclusive.

109 (b) Contributions to a portable benefit account on behalf of an eligible driver by a  
110 delivery network company under subsection (a) of section 3 shall not be included in calculating  
111 gross income of the eligible driver under chapter 62.

112 (c) Pursuant to section 3 of chapter 62, amounts elected to be contributed by an app-  
113 based-delivery driver shall be allowed as a deduction in determining taxable income.

114 (d) Any distribution from an eligible driver's portable benefit account shall not be  
115 included in gross income of the eligible driver under chapter 62, to the extent such distributions

116 are for a permissible use, as certified by the eligible driver to the portable benefit account  
117 provider.

118 (e) Notwithstanding subsections (a) to (d), inclusive, in the case of any distribution from  
119 the health and paid leave account of an eligible driver's portable benefit account which is not for  
120 a permissible use, the distribution shall be included in calculating gross income of the eligible  
121 driver under chapter 62 and in addition the distribution amount shall be subject to an additional  
122 10 per cent penalty tax.

123 Section 6. The director of the department of family and medical leave shall promulgate  
124 rules and regulations pursuant to this chapter.

125 SECTION 2. The General Laws, as appearing in the 2020 Official Edition, are hereby  
126 amended by inserting after chapter 175N the following chapter:

127 CHAPTER 175O

128 OCCUPATIONAL ACCIDENT INSURANCE FOR APP-BASED-DELIVERY  
129 DRIVERS

130 Section 1. For the purposes of this chapter, the following words shall have the following  
131 meanings:-

132 "App-based-delivery driver", has the same meaning as provided in section 2 of Chapter  
133 175N.

134 "Average weekly earnings", the app-based-delivery driver's total earnings from all  
135 delivery network companies during the 28 days prior to a covered accident divided by four.

136 “Earnings”, has the same meaning as provided in section 2 of Chapter 175N.

137 “Maximum weekly compensation rate”, has the same meaning as provided in section 1 of  
138 chapter 152.

139 “Minimum weekly compensation rate”, has the same meaning as provided in section 1 of  
140 chapter 152.

141 “Delivery network company”, has the same meaning as provided in section 2 of Chapter  
142 175N.

143 Section 2. It is an unlawful practice, unless based upon a bona fide occupational  
144 qualification or public or app-based-delivery driver safety need, for a delivery network company  
145 to refuse to contract with, terminate the contract of, or deactivate from the delivery network  
146 company’s online-enabled application or platform, any app-based-delivery driver or prospective  
147 app-based-delivery driver based upon race, color, religious creed, national origin, sex, gender  
148 identity, sexual orientation, which shall not include persons whose sexual orientation involves  
149 minor children as the sex object, genetic information, pregnancy or a condition related to said  
150 pregnancy including, but not limited to, lactation or the need to express breast milk for a nursing  
151 child, ancestry or status as a veteran.

152 Section 3. (a) Delivery network companies, within 240 days of the effective date of this  
153 act, shall purchase occupational accident insurance, as described in subsection (c), for all app-  
154 based-delivery drivers who provide services through their networks within the Commonwealth.

155 (b) Delivery network companies shall file with the division of insurance, no later than 30  
156 days after the commencement of a new policy year, a copy of the policy it has purchased for app-

157 based-delivery drivers. The division of insurance shall be treated by the insurer as a certificate  
158 holder for purposes of receiving notice of cancellation of the policy.

159 (c) The occupational accident insurance policy required under subsection (a) shall cover  
160 medical expenses and lost income resulting from injuries suffered while the app-based-delivery  
161 driver engaged on a delivery network company's online-enabled application or platform. Policies  
162 shall at a minimum provide, in aggregate, at least \$1,000,000 of coverage and, at a minimum, the  
163 following: (1) Coverage for medical expenses incurred, up to at least \$250,000; (2) Continuous  
164 total disability payments, temporary total disability payments, and partial disability equal to 60  
165 per cent of the app-based-delivery driver's average weekly earnings from all delivery network  
166 companies as of the date of injury but not more than the maximum weekly compensation rate,  
167 unless the average weekly wage of the app-based-delivery driver is less than the minimum  
168 weekly compensation rate, in which case the weekly compensation shall be equal to the app-  
169 based-delivery driver's average weekly wage. Payments under this paragraph shall be made for  
170 up to the first 156 weeks following the injury; (3) For the benefit of spouses, children, or other  
171 dependents of app-based-delivery drivers, accidental death insurance in the amount equal to 66  
172 per cent of the app-based-delivery driver's average weekly earnings from all delivery network  
173 companies as of the date of injury but not more than the maximum weekly compensation rate,  
174 unless the average weekly wage of the app-based-delivery driver is less than the minimum  
175 weekly compensation rate, in which case the weekly compensation shall be equal to the app-  
176 based-delivery driver's average weekly wage, times 156 weeks for injuries suffered by an app-  
177 based-delivery driver while the app-based-delivery driver is engaged on the delivery network  
178 company's online-enabled application or platform that result in death.

179 (d) If an accident is covered by occupational accident insurance maintained by more than  
180 one delivery network company, the insurer of the delivery network company against whom a  
181 claim is filed is entitled to contribution for the pro-rata share of coverage attributable to one or  
182 more other delivery network companies up to the coverages and limits in subdivision (c).

183 (e) For purposes of this section, an app-based-delivery driver is engaged on a delivery  
184 network company's platform from when the app-based-delivery driver accepts a delivery request  
185 to when the app-based-delivery driver completes that delivery request.

186 (f) Any benefits provided to an app-based-delivery driver under subsection (a) or  
187 subsection (c) of this section shall be considered amounts payable under a driver's compensation  
188 law or disability benefit for the purpose of determining amounts payable under any insurance  
189 provided under section 113L of chapter 175 or under any personal injury protection coverage, as  
190 defined in section 34A of chapter 90.

191 SECTION 3. The General Laws, as appearing in the 2020 Official Edition, are hereby  
192 amended by inserting after chapter 175O the following chapter:

193 CHAPTER 175P

194 AUTOMOBILE INSURANCE FOR DELIVERY NETWORK COMPANIES AND  
195 DRIVERS

196 Section 1. For the purposes of this chapter, the following words shall have the following  
197 meanings:-

198 "App-based-delivery driver", has the same meaning as provided in section 2 of Chapter  
199 175N.

200 “Delivery network company”, has the same meaning as provided in section 2 of Chapter  
201 175N.

202 “Delivery services,” has the same meaning as provided in section 2 of Chapter 175N.

203 “Delivery service period”, means the period: (a) beginning when an app-based-delivery  
204 driver starts operating a personal vehicle enroute to pick up any item or items for a delivery or  
205 series of deliveries as documented via a digital network controlled by a delivery network  
206 company, (b) continuing while the app-based-delivery driver transports the item or items, and (c)  
207 ending upon delivery of the requested item or items to (i) the customer or the last customer in a  
208 series of deliveries, or (ii) a location designated by the delivery network company, including for  
209 purposes of returning the item or items.

210 “Digital network” means any online-enabled application, software, website, or system  
211 offered or utilized by a delivery network company that enables deliveries with app-based-  
212 delivery drivers.

213 “Personal vehicle” means a vehicle that is: (a) used by an app-based-delivery driver to  
214 provide delivery services via a digital network, and (b) owned, leased, or otherwise authorized  
215 for use by the app-based-delivery driver.

216 Section 2. (a) A delivery network company shall ensure that, during the delivery service  
217 period, primary automobile liability insurance is in place that recognizes that the driver is an app-  
218 based-delivery driver or that does not exclude coverage for use of a personal vehicle to provide  
219 deliveries.

220 (b) During the delivery service period, the app-based-delivery driver, delivery network  
221 company, or any combination of the two shall maintain automobile insurance that insures the  
222 driver for liability to third parties of not less than \$50,000 for damages arising out of bodily  
223 injury sustained by any one person in an accident, of not less than \$100,000 for damages arising  
224 out of bodily injury sustained by all persons injured in an accident, and of not less than \$25,000  
225 for all damages arising out of damage to or destruction of property in an accident, uninsured  
226 motorist coverage, to the extent required by section 113L of chapter 175, and personal injury  
227 protection, to the extent required by section 34A of chapter 90.

228 (c) If the insurance coverage maintained by an app-based-delivery driver pursuant to  
229 subsections (a) and (b) of this section has lapsed or does not provide the required coverage,  
230 insurance maintained by the delivery network company shall provide the coverage required by  
231 subsections (a) and (b) of this section beginning with the first dollar of a claim and the insurance  
232 maintained by the delivery network company shall have the duty to defend the claim.

233 (d) Coverage under an automobile insurance policy maintained by the delivery network  
234 company shall not be dependent upon another motor vehicle liability insurer first denying a  
235 claim, nor shall another motor vehicle liability insurance policy be required to first deny a claim.

236 (e) Insurance coverage required by this section may be obtained from an insurance  
237 company duly licensed to transact business under the insurance laws of this State or by an  
238 eligible surplus lines broker under section 168 of chapter 175.

239 (f) The coverage required pursuant to subsections (a) and (b) of this section shall be  
240 deemed to satisfy the financial responsibility requirement for a motor vehicle established by  
241 section 34A of chapter 90 and section 113L of chapter 175.

242 SECTION 4. Section 2 of chapter 62 of the General Laws, as appearing in the 2020  
243 Official Edition, is hereby amended by inserting after paragraph (1)(Q) of subsection (a)  
244 the following subparagraph:-

245 (R) Any amount contributed to a portable benefit account by a delivery network company  
246 for an eligible driver under subsection (a) of section 3 of Chapter 175N.

247 SECTION 5. Section 3 of Chapter 62 of the General Laws, as appearing in the 2020  
248 Official Edition, is hereby amended by inserting after paragraph (19) of subsection (a) the  
249 following paragraph:-

250 (20) An amount equal to the total contributions elected by an eligible driver under  
251 subsection (c) of section 3 of Chapter 175N.

252 SECTION 6. Section 148B of Chapter 149 of the General Laws, as appearing in the 2020  
253 Official Edition, is hereby amended by inserting after subsection (e) the following  
254 subsections: -

255 (f) Notwithstanding subsection (a), for the purpose of this chapter and chapter 151, and  
256 all other purposes, an app-based-delivery driver is an independent contractor and not an  
257 employee with respect to his or her relationship with a delivery network company so long as: (1)  
258 the delivery network company does not unilaterally prescribe specific dates, times of day, or a  
259 minimum number of hours during which the app-based-delivery driver must be logged into the  
260 delivery network company's online-enabled application or platform; (2) the delivery network  
261 company may not terminate the contract of the app-based-delivery driver for not accepting a

262 delivery service request; (3) the delivery network company does not restrict the app-based-  
263 delivery driver from performing services through other delivery network companies except while  
264 performing services through the delivery network company's online-enabled application or  
265 platform; and (4) the delivery network company does not restrict the app-based-delivery driver  
266 from working in any other lawful occupation or business.

267 (g) For purposes of subsection (f), the following words shall have the following  
268 meanings:

269 "App-based-delivery driver", has the same meaning as provided in section 2 of Chapter  
270 175N.

271 "Delivery network company", has the same meaning as provided in section 2 of Chapter  
272 175N.

273 SECTION 7. Severability. (a) In accordance with section 6 of chapter 4, if any section or  
274 subsection of this act or its application to any person or circumstance is adjudged  
275 unconstitutional or invalid, such judgment shall not affect other provisions or applications of this  
276 act, which can be given effect without the invalid provision or application.

277 (b) Notwithstanding subsection (a), if Section 6 of this act is for any reason held to be  
278 invalid in its entirety by a decision of any court of competent jurisdiction, that decision shall  
279 apply to the entirety of the remaining provisions of this act, and no provision of this act shall be  
280 deemed valid or given force of law.

281 SECTION 8. Preemption. Jurisdiction in all matters concerning delivery network  
282 companies and app-based-delivery drivers is vested exclusively in the state. Notwithstanding any

283 other provision of law, no municipality or other local entity shall establish or enforce any  
284 provision of law concerning delivery network companies or app-based-delivery drivers. Any  
285 provision of any local law or ordinance that on its face or as applied regulates delivery network  
286 companies or app-based-delivery drivers shall be preempted.