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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2369

- 03/02/2023 Authored by Hassan, Noor, Hussein, Jordan, Greenman and others
- 03/13/2023 The bill was read for the first time and referred to the Committee on Labor and Industry Finance and Policy
- 03/16/2023 Adoption of Report: Re-referred to the Committee on Commerce Finance and Policy
- 03/16/2023 By motion, recalled and re-referred to the Committee on Judiciary Finance and Civil Law

1.1 A bill for an act

1.2 relating to labor; establishing protections for transportation network company

1.3 drivers; proposing coding for new law as Minnesota Statutes, chapter 181C.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. 181C.01 DEFINITIONS.

1.6 (a) For the purposes of this chapter, the following terms have the meanings given.

1.7 (b) "Deactivation" means the suspension or termination of a driver's ability to receive

1.8 connections to potential riders, packages or related services from a transportation network

1.9 company.

1.10 (c) "Digital network" means any online-enabled application, software, website, or other

1.11 system offered or utilized by a transportation network company that enables the

1.12 prearrangement of rides or delivery of packages by transportation network company drivers.

1.13 (d) "Prearranged ride" or "ride" and "prearranged package delivery" or "delivery" means

1.14 the provision of transportation by a driver to a rider or a package, beginning when driver

1.15 accepts a request to transport the person or package through a digital network controlled

1.16 by a transportation network company, continuing while the driver transports the rider or

1.17 package, and ending when the last requesting rider or package departs the vehicle.

1.18 (e) "Transportation network company" or "TNC" means a corporation, partnership, sole

1.19 proprietorship, or other entity that provides transportation services in this state and that uses

1.20 a digital network to connect TNC riders or package deliveries to TNC drivers who provide

1.21 prearranged rides or prearranged package delivery. A TNC does not include taxicabs,

1.22 limousines, for-hire vehicles, or a private passenger vehicle driven by a volunteer driver.

2.1 (f) "Transportation network driver" or "driver" means an individual who receives
2.2 connections to potential riders, packages, or related services from a TNC in exchange for
2.3 payment.

2.4 **Sec. 2. [181C.02] OBLIGATIONS AND DUTIES; INSURANCE REQUIREMENTS.**

2.5 A TNC must:

2.6 (1) provide insurance that fully covers any injuries sustained by a driver while the driver
2.7 is picking up or transporting passengers or packages, driving between transporting riders
2.8 or packages, or waiting to receive from the TNC a new contact to transport riders or packages.
2.9 The insurance shall be payable to the driver or to the driver's beneficiaries. This insurance
2.10 must give coverage to a driver at least equal to that provided under workers' compensation
2.11 insurance as allowed under chapter 176; and

2.12 (2) provide all insurance necessary for the protection of the transporting vehicles and
2.13 of passengers or third parties while the driver is picking up or transporting passengers or
2.14 packages, driving in between pickups, or waiting for a new contact from the TNC for the
2.15 transport of riders or packages. This insurance must also cover all types of injuries or
2.16 damages required by the insurance laws of this state for vehicles engaged in transporting
2.17 packages, including as required under chapter 65B.

2.18 **Sec. 3. [181C.03] MINIMUM COMPENSATION.**

2.19 (a) All fees provided in this section must be calculated on a per-trip basis and may not
2.20 be combined.

2.21 (b) Minimum compensation paid by a TNC shall be as follows:

2.22 (1) at least \$2.55 per mile and 65 cents per minute to all drivers for the time transporting
2.23 a passenger or package, unless surge or other enhanced billing is in effect, in which case
2.24 the driver shall also be paid 85 percent of any additional fee or fare charged to the rider or
2.25 package sender on top of their regular mile and minute fees paid on a per-trip basis;

2.26 (2) a \$10 cancellation fee when a cancellation occurs after the driver has already departed
2.27 to pick up the rider or package;

2.28 (3) \$1.25 per mile and 20 cents per minute if a driver must drive more than five miles
2.29 to pick up a person or package or for the next pickup while a driver is traveling empty to
2.30 pick up the passenger or package. Upon pickup, compensation shall revert to the
2.31 compensation under clause (1); and

3.1 (4) a minimum fee of \$6.50 for any transport of a rider or package to a driver.

3.2 (c) A TNC that uses its software or collection technology to collect fees or fares, whether
3.3 the fees or fares are actually collected, must still pay a driver the fees or fares earned by the
3.4 driver.

3.5 (d) A TNC must provide to the applicable driver all tips that a passenger or sender of
3.6 packages provides within one week following the ride or package transport.

3.7 (e) Beginning July 1, 2024, and each July 1 thereafter, the fares and fees provided in
3.8 this section are subject to an automatic annual adjustment equal to the cost-of-living
3.9 percentage published by the United States Department of Labor.

3.10 **Sec. 4. [181C.04] REIMBURSEMENT OF COSTS.**

3.11 (a) A TNC shall pay reimbursement of costs as follows:

3.12 (1) ten cents per mile for fuel or energy costs and all tolls or fees required to make the
3.13 trip when a driver is driving to pick up, transporting, or waiting to pick up packages or riders
3.14 for all assigned trips by the TNC;

3.15 (2) 31 cents per mile for wear and tear on the vehicle used to transport riders or packages
3.16 for the use of the driver's own vehicle. This figure shall be automatically adjusted whenever
3.17 the Internal Revenue Service indicates an adjusted amount per mile for business use of
3.18 vehicles to half that per-mile amount;

3.19 (3) if circumstances require the use of a truck or specialized vehicle, the rate per mile
3.20 shall be 25 percent above the amount for vehicles; and

3.21 (4) the purchase of any vehicle equipment recommended or required by the TNC.

3.22 (b) A TNC may not receive any compensation from a car rental company or other product
3.23 provided to a driver.

3.24 **Sec. 5. [181C.05] DEACTIVATION.**

3.25 (a) A TNC must have clear written rules stating the circumstances under which a driver
3.26 may be deactivated or sanctioned, either permanently or temporarily. These rules and any
3.27 updates must be available both online and in written form to the drivers at least 30 days
3.28 before they are enforceable.

3.29 (b) Deactivation for more than three days may only be as a consequence of a major
3.30 infraction that occurred while driving. The circumstances constituting a major infraction
3.31 must be clearly stated in the rules and are limited to driving while impaired; reckless or

4.1 careless driving; unprovoked assault; theft; sexual, racial, or other illegal harassment initiated
4.2 by a driver; and any felony committed by a driver while driving.

4.3 (c) Infractions that are not a major infraction cannot be combined to cause a deactivation
4.4 of more than three days unless the driver establishes a clear pattern of disregard for the
4.5 interest of passengers or the obligations of the driver after at least three written warnings
4.6 about the behavior.

4.7 (d) A TNC must provide the driver and the driver resource center with a written account
4.8 of the basis for any proposed deactivation or other sanction, including the rule or rules the
4.9 TNC claims have been violated. The driver must have the opportunity to present their
4.10 position and any other relevant information or witnesses regarding the alleged infraction
4.11 prior to deactivation or a sanction being imposed. The TNC must consider the information
4.12 provided by the driver. The burden of persuasion for any rule violation is more likely than
4.13 not and must be based on substantial, credible evidence. For a deactivation to occur it must
4.14 be a reasonable action based on the totality of the circumstances. A decertification hearing
4.15 must occur within ten days of a TNC becoming aware of an alleged violation. A traffic
4.16 ticket or other traffic or criminal charge is not conclusive evidence of a violation unless
4.17 there has been a conviction.

4.18 (e) A hearing must occur prior to any deactivation or other sanction being applied, except
4.19 that a TNC may temporarily deactivate a driver for a major infraction that endangers public
4.20 safety. In such instances, if the violation is not substantiated, the TNC must immediately
4.21 reinstate the driver. If no hearing occurs within the required time period, and no continuance
4.22 is agreed to, the alleged claim of a violation must be dismissed and cannot form the basis
4.23 of any further deactivation or other sanction.

4.24 (f) If the TNC deactivates a driver, gives a suspension of more than ten days, or if multiple
4.25 deactivations exceeding 15 days to a driver occur in a two-year period, the driver may appeal
4.26 to the Office of Administrative Hearings (OAH) using the contested case procedure under
4.27 chapter 14. The OAH may order that the deactivation be stayed until the hearing. This
4.28 provision does not affect layoffs for economic reasons that are not targeted at a particular
4.29 driver or drivers.

4.30 (g) Any driver who has been deactivated by a TNC since January 1, 2019, has the right
4.31 to a hearing, consistent with the procedures provided in this section, to determine if there
4.32 was a valid basis for the deactivation. If a valid basis is not established consistent with this
4.33 section, the driver must be reinstated. A driver who has previously been deactivated may
4.34 reapply for driver status and the application must be reviewed consistent with this chapter.

5.1 (h) By August 1, 2023, a TNC must provide notice of a right to a hearing to all drivers
 5.2 deactivated since January 1, 2019, by contacting the drivers through the following means:

5.3 (1) emailing notice to the last known email address;

5.4 (2) texting to the last known cell phone number;

5.5 (3) providing a written notice to the last known home address; and

5.6 (4) calling the last known phone number of the deactivated driver.

5.7 Notified deactivated drivers will have 90 days to request a hearing. If a driver requests a
 5.8 hearing, the procedures contained in this section apply to that process.

5.9 **Sec. 6. [181C.06] RETALIATION PROHIBITED.**

5.10 A TNC may not retaliate against or discipline a driver for making a complaint, pursuing
 5.11 enforcement of the terms of this chapter, joining with other drivers to discuss or address
 5.12 concerns, or otherwise engaging in public discourse or expressing opinions regarding their
 5.13 relationship with a TNC.

5.14 **Sec. 7. [181C.07] EQUAL ACCESS TO TRANSPORT.**

5.15 A TNC may not use assignment of rides or deliveries to favor or disfavor any driver for
 5.16 any reason. The assignments must be on a nonpreferential basis. A TNC must not withhold
 5.17 or change assignments to a driver because a driver refused potential dispatches. All dispatches
 5.18 must be made on a driver-neutral basis. A TNC is prohibited from promising preferential
 5.19 treatment in rider or package delivery assignments if a driver agrees to refrain from joining
 5.20 an organization of drivers or for any other reason.

5.21 **Sec. 8. [181C.08] DISCRIMINATION PROHIBITED.**

5.22 A TNC may not discriminate against any of its drivers, applicants to become drivers,
 5.23 riders, potential riders, package delivery customers, potential customers, or service receivers
 5.24 due to race, national origin, color, religion, age, gender, disabilities, sexual orientation, or
 5.25 gender identity. Nothing in this language prohibits providing reasonable accommodations
 5.26 to people with disabilities, for religious reasons, due to pregnancy, or to remedy previous
 5.27 discriminatory behavior.

5.28 **Sec. 9. [181C.09] CIVIL ACTION.**

5.29 (a) A driver or a driver's beneficiaries may bring a civil action for damages for
 5.30 noncompliance or a violation of this chapter against a TNC in district court.

6.1 (b) A prevailing plaintiff is entitled to three times the damages suffered. This includes
6.2 but is not limited to damages for failure to provide the required insurance, which shall be
6.3 at least equal to the cost of that insurance, plus any benefits that were not obtained as a
6.4 result of the insurance not being in force; any income lost or expenses not paid; damages
6.5 for emotional distress; and any other harm that resulted directly or indirectly from the failure
6.6 to comply with this chapter. Injunctive relief may also be sought and granted. A prevailing
6.7 plaintiff is entitled to reasonable attorney fees, costs, and expenses.

6.8 (c) A \$1,000 penalty for each violation may be issued to the TNC and made payable to
6.9 the injured party.

6.10 (d) The statute of limitations on any such complaint is three years from the date of
6.11 discovery of the last instance of the violation affecting the complaining party.

6.12 **Sec. 10. [181C.10] REVOCATION OF LICENSE.**

6.13 Failure to comply with the requirements of this chapter subjects a TNC to revocation of
6.14 any license and right to operate issued by a local unit of government. The commissioner of
6.15 labor and industry may initiate a revocation or limitation of license proceeding with a local
6.16 unit of government providing TNC licenses based upon a failure to comply with this chapter.

6.17 **Sec. 11. [181C.11] TRANSPARENCY.**

6.18 (a) When a TNC alerts a driver of a possible assignment to transport a rider or package,
6.19 the TNC must indicate the number of miles and likely travel time from the driver's current
6.20 location to the pickup. The TNC must separately indicate the length and likely travel time
6.21 of the trip.

6.22 (b) Within 24 hours of each trip completion, the TNC shall transmit an electronic receipt
6.23 to the driver containing the following information for each unique trip or portion of a unique
6.24 trip:

6.25 (1) the date, location, total distance traveled, and time spent from acceptance of the
6.26 assignment to its completion;

6.27 (2) the time taken and total distance traveled from pickup to drop-off of the rider or
6.28 package;

6.29 (3) an itemization of the total fare or fee paid by the passenger;

6.30 (4) the total compensation to the driver specifying the rate or rates of pay, the rate per
6.31 minute, rate per mile, any applicable price multiplier or variable pricing policy in effect,

7.1 tip compensation, and a specifically itemized list of all costs and reimbursements to, or
 7.2 charged to, the driver; and

7.3 (5) any other information necessary to implement this chapter.

7.4 (c) On a weekly basis, the TNC shall provide a written notice to each driver containing
 7.5 the information required in paragraph (b), in a cumulative format for the week.

7.6 (d) Each driver must be provided with a detailed and itemized explanation communicated
 7.7 either in writing or electronically of how the driver's compensation is calculated. The
 7.8 communication must specify:

7.9 (1) all factors that impact a driver's compensation or reimbursement; and

7.10 (2) on average, the percentage of the total collected fees and costs incurred by the TNC
 7.11 that are allocated to the drivers.

7.12 (e) Any changes in the criteria, formula, or method of calculating the total compensation
 7.13 to drivers must be provided to drivers in writing at least 30 days prior to taking effect.

7.14 Sec. 12. **[181C.12] COLLECTIVE BARGAINING AGREEMENTS; EMPLOYMENT**
 7.15 **STATUS.**

7.16 Nothing in this chapter prohibits collective bargaining or is a basis to conclude whether
 7.17 a driver is an employee or independent contractor.

7.18 Sec. 13. **[181C.13] DRIVER CONTRACT REQUIREMENTS.**

7.19 A copy of this chapter must be attached to every driver contract for drivers in this state.
 7.20 The rights and remedies established in this chapter are not required to be pursued through
 7.21 arbitration and shall be at the election of the driver. Contracts that have already been executed
 7.22 must have an addendum provided to each driver that includes a copy of this chapter and
 7.23 notice that a driver may elect to pursue the remedies provided in this chapter, rather than
 7.24 through arbitration. For cases that go to arbitration, the rights and damages that drivers are
 7.25 entitled to in an arbitration proceeding shall be as provided in this chapter.

7.26 Sec. 14. **[181C.14] DRIVER RESOURCE CENTER.**

7.27 Subdivision 1. **Selection; purpose.** (a) The commissioner of labor and industry shall
 7.28 facilitate the creation of a driver resource center to assist in implementing the goals and
 7.29 purposes of this chapter. The commissioner shall select the organization to oversee and
 7.30 administer the center.

8.1 (b) The driver resource center shall provide the following services:

8.2 (1) outreach and education to TNC drivers regarding their rights and obligations under
8.3 this chapter and the applicable labor standards to support their ability to perform TNC driver
8.4 services;

8.5 (2) consult with drivers facing deactivation or other sanctions or violations of this chapter;

8.6 (3) educate drivers regarding other applicable federal, state, and local laws and regulations
8.7 related to their role as drivers;

8.8 (4) culturally and linguistically appropriate services, outreach, and education; and

8.9 (5) assist in ensuring the purposes of this chapter are fulfilled.

8.10 Subd. 2. **Administration.** (a) The driver resource center shall be administered by a
8.11 nonprofit organization that is, or is affiliated with, an organization with experience advocating
8.12 for the civil and economic rights of drivers, including those from disadvantaged
8.13 socioeconomic groups.

8.14 (b) Neither the driver resource center nor the organization administering the center may
8.15 be funded, influenced, or controlled by a TNC.

8.16 Subd. 3. **TNC agreements.** A TNC must enter into an agreement with the driver resource
8.17 center regarding the driver deactivation hearing process provided under section 181C.04.
8.18 Other issues may be included in the agreement. Any agreement must be approved by the
8.19 Department of Labor and Industry.

8.20 Subd. 4. **Funding.** Beginning September 15, 2023, TNCs shall collect 25 cents from
8.21 each trip or portion of a trip and transfer all funds collected from the 25 cents per trip
8.22 remittance to the driver resource center fund. The remittance under this subdivision is a
8.23 pass-through from passengers and shall not be considered TNC funds, nor funding by the
8.24 TNCs of the driver resource center. The remittance must be collected from each individual
8.25 trip or shared trip. All remittances collected in a month must be tendered to the fund by the
8.26 15th day of the following month.

8.27 Subd. 5. **Fund created.** A driver resource center fund account is created in the special
8.28 revenue fund in the state treasury. Funds collected from the remittance described in
8.29 subdivision 4 shall be deposited in the fund. Money in the account is appropriated to the
8.30 commissioner of labor and industry to support drivers through the driver resource center.

8.31 Subd. 6. **Reporting.** The entity selected as administrator of the driver resource center
8.32 shall submit a monthly accounting of funds expended and the purpose for the expenditure

- 9.1 and provide all other relevant accounting documents to the commissioner of labor and
- 9.2 industry. Upon verification, the commissioner shall disburse funds within 15 days of receipt
- 9.3 of the accounting invoice to the driver resource center.