AN ACT CONCERNING TRANSPORTATION NETWORK COMPANY DRIVERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (Effective October 1, 2021) As used in sections 1 to 7, inclusive, of this act, unless the context otherwise requires:

(1) "Transportation network company" or "TNC" means a business, or group of businesses whose share of common ownership is greater than fifty per cent, that has hired, contracted with, partnered with, or maintained a contractual relationship or partnership with, fifty or more TNC drivers and that operates a web site or smartphone application from which a customer purchases, schedules or otherwise arranges for the transporting of passengers on trips that originate in this state;

(2) "Transportation network company driver" or "TNC driver" means an individual who has been hired, contracted with, partnered with, or maintained a contractual relationship or partnership with, a TNC only to the extent that the TNC driver is transporting passengers on trips that originate in this state, arranged via a transportation network company, and for which such worker receives remuneration from such
(3) "Delivery network company" or "DNC" means a business or group of businesses whose share of common ownership is greater than fifty per cent, that has hired, contracted with, partnered with, or maintained a contractual relationship or partnership with fifty or more DNC drivers and that operates a web site or smartphone application from which a customer purchases, schedules or otherwise arranges for the DNC driver to transport ready-to-eat food on an on-demand basis for trips that originate in this state in response to an order placed by the end purchaser of food or other good;

(4) "Delivery network company driver" or "DNC driver" means an individual who has been hired, contracted with, partnered with, or maintained a contractual relationship or partnership with, a DNC only to the extent that the DNC driver is transporting ready-to-eat food on trips that originate in this state, arranged via delivery network company, and for which such worker receives remuneration from such delivery network company;

(5) "Network companies" include all transportation network companies and delivery network companies as defined in this section;

(6) "Network workers" include all transportation network company drivers and delivery network company drivers as defined in this section;

(7) "Union" means an organization certified by the director of the State Board of Labor Relations to represent, or that seeks to represent, network workers in a bargaining unit;

(8) "Board" means the State Board of Labor Relations created pursuant to section 31-102 of the general statutes;

(9) "Director" means the director of the State Board of Labor Relations;

(10) "Collectively bargained recommendations" or "collectively bargained recommendations for the terms and conditions of work"
means the recommended terms and conditions of work agreed upon collectively by the industry council;

(11) "Binding terms and conditions of work" means the terms and conditions approved by the board regulating network companies and network workers, which are exempt from federal antitrust laws and which displace the compensation requirements of such laws with terms and conditions of network worker compensation and work conditions;

(12) "Industry council" means the body comprised of member network companies, when network workers are represented by a representative union, and their respective representative unions; and

(13) "Active network worker", with respect to a particular TNC or DNC, means a TNC driver or DNC driver who has performed one hundred twenty requests through the TNC's platform in the last ninety days.

Sec. 2. (NEW) (Effective October 1, 2021) (a) Individuals who are network workers may organize without interference from their affiliated network company to seek the representation of an organization as described in this section to join the industry council and bargain on their behalf to create collectively bargained recommendations that may be approved by the board concerning the terms and conditions of work under which the network workers shall provide services throughout the sector.

(b) Upon request by a union to a network company, such network company shall provide the director, not later than thirty days after the request, a system to directly contact all active network workers in the requested unit. The system shall allow for direct contact by the union, the director or another authorized user without the direct transfer or sharing of personally identifiable information, in accordance with the network company's privacy policy, and shall allow the director to confirm the total number of active network workers and the current active network worker status for each signed authorization card submitted by a union. If a network company fails to provide the director
with credentials to access a system to directly contact network workers not later than thirty days after the union made its initial request, the director may issue a daily penalty not exceeding one hundred thousand dollars for each day the network company fails to cure such violation. If the network company provides the requested information as provided in this section, the director shall inform a requesting union of the number of active network workers for which it received information from the network company.

(c) If a union provides the director with proof of interest from not less than ten per cent of the active network workers in a bargaining unit, the director shall supply the union with credentials to access the system to directly contact network workers it was provided by the director. Proof of interest shall be in the form of signed authorization cards, which may be in electronic form, and shall be calculated based on the number of active network workers the director included in the system. A union shall use the system to contact active network workers pursuant to this subsection for the sole purpose of contacting drivers to solicit their interest in being represented by the union.

(d) If no union currently serves as the exclusive negotiating representative for an appropriate bargaining unit, a director may voluntarily recognize a union as a representative union of its network workers for the requested unit for the purpose of joining an industry council and commencing negotiations under this article, if that union provides to the director proof that ten per cent of the active network workers in the unit have shown their preference to have that union serve as their representative. Proof of interest shall be in the form of authorization cards, which may be in electronic form, signed and dated within the previous twelve months.

(e) In order to become the exclusive representative, a union or representative union may present proof of interest from thirty per cent of active network workers in the unit, at which point the director shall hold an election to determine if the unit wishes to be represented by the union or representative union. Proof of interest shall be in the form of
signed authorization cards, which may be in electronic form, and shall
be calculated based on the number of active network workers for which
the director provides access pursuant to this section. If a majority of all
network workers in the bargaining unit who vote choose representation
by the petitioning union, the director shall declare that the union is the
exclusive representative union of the network workers.

(f) In the event that a unit of network workers vote to reject union
representation, a union shall wait not less than twelve months before
seeking an election to become the exclusive representative of network
workers in the same bargaining unit.

(g) A network worker may file a petition with the director to request
decertification of a representative union through the following
procedures: (1) A decertification petition shall be received by the
director not more than thirty days before the expiration of a binding set
of terms and conditions of work reached pursuant to this section or not
less than three years after the binding set of terms and conditions of
work effective date, whichever is earlier; (2) a decertification petition
shall be signed by not less than thirty per cent of the network workers
in the bargaining unit; and (3) the signatures may be in electronic form
and shall be dated within one year of the date that the petition is
submitted. When a petition has been accepted by the director, the
director shall issue notice to the director and the representative union of
the decertification petition and promulgate a decertification date. The
director shall have fourteen days from the decertification date to
transmit a list of the members of the bargaining unit to the petitioners
and the representative union. After receipt of a petition, the director
shall determine if the signatures are sufficient to hold an election to
decertify the representative union for that particular director or declare
that the decertification petition did not meet the threshold and reaffirm
that the representative union shall continue representing the bargaining
unit. To decertify the representative union, a majority of the voting
members of the bargaining unit shall vote for such decertification. If a
union is decertified for a particular director, a union may establish or
reestablish exclusive negotiating representative status.
Sec. 3. (NEW) (Effective October 1, 2021) (a) Following certification by the director of a voluntary or an exclusive representative, a director and the representative union shall form or, if the industry council has already been formed, join the industry council for the purpose of sectoral bargaining. Upon reaching a threshold of at least eighteen thousand active network workers, the industry council shall meet and negotiate in good faith to create a set of collectively negotiated recommendations concerning the terms and conditions of work for all network workers in the industry council.

(b) A director may be eligible to become a member of the industry council, if it contracts with at least: (1) Five thousand network workers on average each day; or (2) ten per cent of total active network workers in the state.

(c) Each industry council director member may participate in the negotiation process with the representative union members on the council. Each director on the industry council shall exercise one vote. Each representative union representing a bargaining unit shall exercise votes in proportion to the amount of money sent to the nonprofit from the director of the representative union's bargaining unit.

(d) Industry councils shall be formed as tax-exempt organizations for purposes of collective negotiations, administration of community-based job access programs, and any other functions necessary to carry out the provisions of sections 1 to 7, inclusive, of this act. Each industry council shall form committees or related nonprofit entities as needed for purposes of administration of benefits to network workers and community-based job access programs, and any other functions necessary to carry out the provisions of sections 1 to 7, inclusive, of this act. Representation on the governing board of any committee or related nonprofit entity, except for the nonprofit entity established to administer benefits for network workers or for representative union service fees shall include equal representation by both network companies and representative unions unless otherwise specified or agreed to by the parties. Voting threshold to approve measures by a
committee or related nonprofit entity shall be sixty per cent of the votes from network companies and sixty per cent of the votes from representative unions unless otherwise specified or agreed to by the parties.

(e) As a condition of membership in the industry council, in addition to complying with any terms and conditions of work made binding by the director, the director shall agree to collect a surcharge on each trip or delivery facilitated by the director for the network workers of the bargaining unit in an amount not less than six per cent but not more than twelve per cent of the transaction, the amount of which shall be determined as part of the binding terms and conditions of work, to pay for benefits, the functions of the representative unions and worker training programs. The funding required by this section shall not come from or be deducted or drawn from network workers' earnings. On a monthly basis network companies shall remit the required funds to be used as follows: The remainder of the funding percentage shall be used to fund portable benefit accounts for the network workers in the bargaining units. The administration of portable benefit accounts and related funds, including the choice of providers, shall be performed by a single nonprofit entity serving all of the industry councils in the state and established for that purpose. Each representative union on the industry council shall also serve on the board of the nonprofit established to administer benefits and shall exercise votes in proportion to the amount of money sent to the nonprofit from the director of the representative union's bargaining unit.

(f) One per cent of the funding percentage shall go to funding community-based job readiness, skills training, paid internships and programs, to be performed by a subcommittee of the industry council.

(g) Representative union network companies shall remit one per cent of the funding percentage on a monthly basis to the representative union. The unions shall use those allocated funds to provide representation, training benefits and services for their members.
(h) Written affirmation that the director will not unilaterally prescribe specific dates, times of day, or a minimum number of dispatches a network worker shall accept or minimum number of hours during which the network worker shall be logged into the network company's online-enabled application, along with written affirmation that the director will not require the network worker to accept any specific service request as a condition of maintaining access to the director's online-enabled application or platform, and written affirmation that the director will not restrict the network worker from performing services through other network companies, except during engaged time.

(i) A director representative with the appropriate authority shall meet on not less than a quarterly basis with a representative group of network workers to discuss any issues of concern to network workers including, but not limited to, efficiency, safety, communication, best practices and clarification of the director's policies. Such council meetings are not bargaining sessions and there shall not be a mandatory duty to agree.

(j) As a condition of membership in the industry council, network companies and representative unions shall agree to: (1) Publish social equity policies aimed at eliminating racial bias in hiring, training, promotion, services and resource allocation; including annually publishing data identifying the percentage of the organization's governing board, executives and employees that are people of color; (2) prioritize the use of community financial institutions, minority financial institutions and minority asset managers for administration of benefit funds; (3) prioritize local news organizations, including community, hyperlocal, in-language newspaper organizations in contracts or subcontracts for the placement of all marketing and outreach advertising services.

(k) Terms and conditions of work based on the recommendations negotiated pursuant to this section and approved by the director shall be of not more than four years' duration. Terms and conditions of work shall include the rate of payment to network workers and may include consideration of network workers' costs of taxes, expenses, wait time,
and other appropriate considerations such that the resulting rate of pay
for engaged time is not lower than any applicable state or local laws
governing the rate of pay of those network workers that are in effect on
the effective date of this section.

(l) Nothing in this section shall be construed to preclude network
companies from compensating network workers above the minimum
rates established through binding terms and conditions of work. Each
director shall retain exclusive rights to determine the products, product
features, proprietary software algorithms and other systems and
processes that enable compliance with this section and the other terms
and conditions of work included pursuant to this section.

(m) Portable benefits to be funded by the amounts required under
this section and offered through the nonprofit entity offered network
workers through binding terms and conditions of work shall include
both universal benefits that attach to each network worker regardless of
which director they contract with or how much they work and
individual benefit accounts, which may include benefits tied to amount
of work performed for one or more network companies.

(n) Universal benefits offered shall include workplace injury
protection in the form of occupational accident coverage or other
insurance coverage for network workers equal to benefits of such type
provided by existing workers compensation law.

(o) Individual benefit accounts for eligible workers, in which funds
may be deposited, may be used for specific purposes to be determined,
such as paid time off, retirement savings, health care premiums or other
benefits agreed to by the parties.

(p) Minimum health and safety standards shall be established,
including training requirements, protocols and procedures necessary to
provide safe and sanitary transportation services and a safe workplace
environment for network workers.

(q) A written affirmation of antidiscrimination rights shall be
provided to network workers. Such rights shall be no less restrictive upon the director than the antidiscrimination laws of this state.

(r) Written affirmation of due process rights shall be provided to network workers, including the right to representation, dispute resolution and a deactivation appeals process which allows drivers to expeditiously resolve complaints and disputes regarding their suitability or eligibility to drive.

(s) (1) If the industry council members reach agreement on a set of recommendations, they shall reduce such recommendations to writing and submit them to a vote conducted by the representative unions of the network workers of the industry council. In the case of the first election of an industry council concerning recommended terms and conditions of work, the election shall determine if a majority of the voting active network workers in the industry council support the recommended terms and conditions of work. If the voters reject the recommendations, or if the director finds the recommendations noncompliant, at the representative unions' request, the parties are obliged to resume negotiating to reach an agreement that they believe will address the director's concerns and the concerns of the voting workers, and submit new collectively negotiated recommendations to the members as set forth above. If the industry council members negotiate to impasse and fail to reach agreement on a set of recommendations within five months of being certified by the director or within two months of the end of the previous director-approved binding terms and conditions of work, either the network companies or the representative union may submit their dispute to interest arbitration. A majority of the director votes, measured in proportion to the number of network workers it represents, relative to all workers represented in the industry council shall be required to submit the dispute to interest arbitration.

(2) In order for the representative unions to submit the dispute to interest arbitration, the representative unions shall hold an election and may only submit the dispute if a majority of the voters in the industry
council agree. The goal of interest arbitration shall be to create a new set of recommendations to be presented to the director for approval. The interest arbitrator shall be selected by mutual agreement of the network companies and representative unions in the industry council. If the network companies and representative unions in the industry council cannot agree, then the arbitrator shall be determined as follows: (A) From a list of seven arbitrators with experience in labor disputes or interest arbitration designated by the American Arbitration Association, the side requesting arbitration shall strike a name; (B) thereafter, the other side shall strike a name; (C) the process shall continue until one name remains, and that person shall be the arbitrator; (D) the cost of the interest arbitration shall be divided between the parties proportionally, as a proportion each bargaining unit generates of the surcharge in this section; (E) the interest arbitrator shall propose the most fair and reasonable set of recommendations concerning subjects specified in terms and conditions promulgated by the director that furthers the provision of safe, reliable, and economical services, the well-being of the network workers, and the policy goals set forth in this article; and (F) the term of any recommended terms and conditions of work proposed by the interest arbitrator and approved by the director shall not exceed two years. In proposing recommendations, the interest arbitrator shall consider the following criteria: (i) Any stipulations of the parties; (ii) the cost of expenses incurred by network workers, such as fuel, wear and tear on equipment, and insurance; (iii) the safety and equipment standards and rules applicable to other persons, whether employees or independent contractors, employed doing similar work in this state and its environs, as well as other comparable states; (iv) the director's financial condition and need to ensure a reasonable return on investment and profit; (v) any other factors that are normally or traditionally taken into consideration in the determination of wages, hours, safety and equipment standards, rules and conditions of work; and (vi) the state's interest in promoting the provision of safe, reliable, and economical services and otherwise advancing the public policy goals set forth in this article.
(3) The arbitrator shall transmit the proposed recommendations to the director with a written report that sets forth the basis for the arbitrator's resolution of any disputed issues.

(4) Either party may challenge the proposed recommendations not later than ten days after the interest arbitrator releases their recommendations on the following grounds: (A) That the interest arbitrator was biased, (B) that the interest arbitrator exceeded his or her authority, or (C) that a provision of the proposed agreement is arbitrary and capricious. In the event of such a challenge, the director will provide notice to the parties, allow them the opportunity to be heard, and shall make a determination as to whether any of the challenges asserted should be sustained.

(5) During the term of any binding terms and conditions of work, the parties may discuss additional terms and, if agreement on any additional recommendations are reached, shall submit proposed recommendations to a vote of the network workers of the industry council conducted by the representative unions, and to the director, which shall consider the proposed recommendations in accordance with the procedures and standards set forth in section 4 of this act. No proposed recommendations shall go into effect until the recommendations have been approved by both the vote of the network workers and the director.

(t) Not less than ninety days before the expiration of the term of any binding terms and conditions of work, the parties shall meet to negotiate a new set of recommendations.

Sec. 4. (NEW) (Effective October 1, 2021) (a) If the network workers in an industry council approve a set of collectively negotiated recommendations, or an interest arbitrator proposes recommendations in accordance with sections 1 to 7, inclusive, of this act, the recommendations shall be submitted to the director for review and certification.

(b) The director shall review the recommendations to ensure that they
satisfy the minimum requirements and purposes set forth in section 3 of
this act and advance the public policy goals set forth in sections 1 to 7,
inclusive, of this act, including promotion of the well-being of the
network workers and the provision of safe, reliable and economical
services.

(c) In conducting a review, the record shall not be limited to the
submissions of the parties nor to the terms of the proposed
recommendations. The director shall have the right to gather and
consider any necessary evidence, including by conducting public
hearings and requesting additional information from the parties.
Following the review, the director shall notify the parties of the
determination in writing, and shall include in the notification a written
explanation of all conclusions. Absent good cause, the director shall
issue the determination of compliance not later than sixty days after the
receipt of collectively negotiated recommendations. If the director finds
the recommendations compliant, the recommendations shall be binding
on all network companies and network workers in the state. If the
director determines that the recommendations are not compliant, he or
she shall declare such and provide a statement of reasons why they have
rejected the recommendations, and, at the director's discretion, may
suggest ways the parties may remedy such noncompliance.

(d) During the term of any binding terms and conditions of work, the
director shall have an ongoing supervisory role to ensure that their
implementation satisfies the minimum requirements and purposes set
forth in section 3 of this act and advances the public policy goals set forth
in sections 1 to 7, inclusive, of this act, including promotion of the well-
being of the network workers and providing economical services. The
director shall have the authority to withdraw approval of the
recommendations if the director determines that the recommended
terms and conditions no longer adhere to the provisions of this section
or that they no longer promote the provision of safe, reliable, and
economical services and the public policy goals set forth in sections 1 to
7, inclusive, of this act. The director may withdraw approval only after
providing the parties with written notice of the proposed withdrawal of
approval, the grounds therefore, and an opportunity to be heard regarding the proposed withdrawal. The director's withdrawal of approval shall be effective only upon the issuance of a written explanation of the reasons why the approved terms and conditions no longer adhere to the provisions of sections 1 to 7, inclusive, of this act or no longer further the provision of safe, reliable, and economical for-hire transportation services or the public policy goals set forth in sections 1 to 7, inclusive, of this act. If the director withdraws approval of an existing set of binding terms and conditions of work, the parties may submit a new set of agreed-upon recommendations for consideration not later than three months after such withdrawal of approval.

Sec. 5. (NEW) (Effective October 1, 2021) (a) A director or its agent, designee, employee, or any person or group of persons acting directly or indirectly in the interest of the director in relation to their network workers shall not: (1) Refuse to negotiate in good faith with a representative union to create an agreed upon set of recommended terms and conditions of work in connection with the director or refuse to reduce to writing and sign the negotiated recommendations; (2) fail to provide the director with a system to directly contact all network workers in the requested unit within thirty days of the request by a union to the director; (3) dominate or interfere with the formation, existence or administration of an organization representing, or seeking to represent, their network workers; (4) interfere with, restrain, coerce, discharge or otherwise discriminate against any network worker in the exercise of the rights provided to the network worker by sections 1 to 7, inclusive, of this act, or by any other provision of the laws of this state; or (5) offer to provide money or anything of value to any network worker with the intent of encouraging that network worker to exercise, or to refrain from exercising, their rights under sections 1 to 7, inclusive, of this act.

(b) The director shall have complete authority to enforce the requirements of this section.

(c) An investigation by the director of alleged violations of the
provisions of this section shall include such investigatory techniques as
deeded necessary pursuant to conditions adopted by the director.

(d) If the director finds reasonable cause to believe an unfair labor
practice has been committed, they shall issue a notice stating that: (1)
The director found reasonable cause to believe a violation has been
committed and shall be remedied; (2) the person or entity allegedly in
violation of the section is entitled to a hearing before the director to
present evidence to the contrary; and (3) a daily penalty not to exceed
one hundred thousand dollars shall accrue for every day the violator
fails to cure the violation if the violation is uncontested or found
committed. The person or entity named on the notice of violation shall
file with the director a request for a hearing within ten calendar days
after the date of the notice of violation. If the person or entity named on
the notice of violation fails to timely request a hearing, the notice of
violation shall be final and the daily penalty not to exceed one hundred
thousand dollars shall accrue until the violation is cured.

Sec. 6. (NEW) (Effective October 1, 2021) Either party may obtain
judicial review in the superior court of the director's determination on a
set of recommendations or an unfair labor practice final determination
by filing a written petition requesting the order of the director be
modified or set aside within fourteen days from the date of the director's
determination. The director's final determination shall not be stayed
pending judicial review unless a stay is ordered by the court. If review
is not sought, the determination of the director shall be final and
conclusive.

Sec. 7. (NEW) (Effective October 1, 2021) If any part of sections 1 to 7,
inclusive, of this act, or the application thereof to any person or
circumstances, shall, for any reason, be adjudged by a court of
competent jurisdiction to be invalid, such judgment shall not affect,
impair, or invalidate the remainder of sections 1 to 7, inclusive, of this
act, and the application thereof to other persons or circumstances, but
shall be confined in its operation to part thereof directly involved in the
controversy in which such judgment shall have been rendered and to
the person or circumstances involved.

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**Statement of Purpose:**

To allow for and protect the ability of transportation network company drivers and transportation network companies to negotiate terms that best meet the needs of the parties.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]