

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 967 Session of 2023

INTRODUCED BY AUMENT, BARTOLOTTA AND VOGEL, NOVEMBER 21, 2023

SENATOR DiSANTO, BANKING AND INSURANCE, AS AMENDED, SEPTEMBER 17, 2024

AN ACT

1 ~~Establishing portable benefits and protections for app based~~ <--
2 ~~workers.~~

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17 ESTABLISHING PORTABLE BENEFITS AND PROTECTIONS FOR APP-BASED <--
18 WORKERS.

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13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 CHAPTER 1

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16 PRELIMINARY PROVISIONS

17 ~~Section 101. Short title.~~

18 ~~This act shall be known and may be cited as the App Based~~
19 ~~Workers Benefits and Protections Act.~~

20 ~~Section 102. Findings and declarations.~~

21 ~~The General Assembly finds and declares as follows:~~

22 ~~(1) App based workers who are drivers or couriers are~~
23 ~~providing essential services to their communities.~~

24 ~~(2) App based workers who are drivers or couriers retain~~
25 ~~full control over where, when and how they perform app based~~
26 ~~services or work and are therefore classified as independent~~
27 ~~contractors.~~

28 ~~(3) Independent contractors may not be entitled to some~~
29 ~~of the protections and benefits available to employees. To~~
30 ~~protect all of our Pennsylvania workers:~~

1 ~~(i) A portable benefits framework for app based~~
2 ~~workers should be established to enable the provision of~~
3 ~~income replacement, health and wellness benefits and~~
4 ~~other benefits to eligible workers.~~

5 ~~(ii) A separate occupational accident insurance~~
6 ~~requirement for network companies to purchase should be~~
7 ~~established.~~

8 ~~Section 103. Definitions.~~

9 ~~The following words and phrases when used in this act shall~~
10 ~~have the meanings given to them in this section unless the~~
11 ~~context clearly indicates otherwise:~~

12 ~~"Allocation date." The date following the last day of a~~
13 ~~quarter on which a network company makes a quarterly deposit~~
14 ~~into a portable benefit account.~~

15 ~~"App based worker." An individual:~~

16 ~~(1) who is a delivery network company courier or~~
17 ~~transportation network company driver providing services~~
18 ~~within this Commonwealth through a network company's online~~
19 ~~enabled application or platform; and~~

20 ~~(2) who is an independent contractor with respect to the~~
21 ~~app based worker's relationship with the network company~~
22 ~~under section 501(b).~~

23 ~~"Average weekly earnings." An app based worker's total~~
24 ~~earnings from all network companies during a 28 day period~~
25 ~~divided by four.~~

26 ~~"Customer." An individual or business entity.~~

27 ~~"Delivery network company." A business entity that maintains~~
28 ~~an online enabled application or platform used to facilitate~~
29 ~~delivery services within this Commonwealth.~~

30 ~~"Delivery network company courier." An individual who~~

1 ~~provides delivery services through a delivery network company's~~
2 ~~online-enabled application or platform.~~

3 ~~"Delivery services." As follows:~~

4 ~~(1) The fulfillment of a delivery request constituting~~
5 ~~the pickup from a location of an item and the delivery of the~~
6 ~~item to another location that is selected by the customer and~~
7 ~~located within 50 miles of the pickup location, by walking or~~
8 ~~using a passenger vehicle, bicycle, scooter, public~~
9 ~~transportation or other similar means of transportation.~~

10 ~~(2) The term shall include the selection, collection or~~
11 ~~purchase of an item by a delivery network company courier if~~
12 ~~the selection, collection or purchase is done in connection~~
13 ~~with a delivery facilitated by the network company's~~
14 ~~platform.~~

15 ~~(3) The term does not include assistance with~~
16 ~~residential moving services.~~

17 ~~"Earnings." An amount, including an incentive and bonus,~~
18 ~~remitted to an app based worker. The term does not include:~~

19 ~~(1) Toll fees, cleaning fees, airport fees or other~~
20 ~~customer pass throughs.~~

21 ~~(2) An amount remitted which is not net of service fees~~
22 ~~or similar fees charged to the app based worker by the~~
23 ~~network company.~~

24 ~~(3) An amount remitted which includes tips or~~
25 ~~gratuities.~~

26 ~~"Earnings loss." A decrease of at least 50% in an app based~~
27 ~~worker's monthly earnings from the previous month that results~~
28 ~~through no fault of the app based worker.~~

29 ~~"Eligibility date." The first day of a quarter, occurring~~
30 ~~365 days after the effective date of this definition, during~~

1 ~~which an app based worker qualifies as an eligible worker.~~

2 ~~"Eligible worker." As follows:~~

3 ~~(1) An app based worker whose earnings from, or~~
4 ~~facilitated by, a network company total at least \$1,000~~
5 ~~during a quarter.~~

6 ~~(2) An app based worker shall be considered an eligible~~
7 ~~worker for the three quarters following the quarter of~~
8 ~~eligibility under paragraph (1), notwithstanding the amount~~
9 ~~the app based worker earns during the three quarters.~~

10 ~~"Institution." As defined in section 102(r) of the act of~~
11 ~~November 30, 1965 (P.L.847, No.356), known as the Banking Code~~
12 ~~of 1965.~~

13 ~~"Interstate bank." As defined in section 102(hh) of the~~
14 ~~Banking Code of 1965.~~

15 ~~"Network company." A delivery network company or~~
16 ~~transportation network company. The term does not include a~~
17 ~~business entity that maintains an online enabled application or~~
18 ~~platform used to facilitate primarily nondelivery and~~
19 ~~nonrideshare services within this Commonwealth, for which less~~
20 ~~than 10% of the platform's business on an annual basis are for~~
21 ~~delivery services or rideshare services.~~

22 ~~"Online enabled application or platform." An online enabled~~
23 ~~application, software, website or system offered or utilized by~~
24 ~~a network company that enables a delivery network company~~
25 ~~courier or transportation network company driver to provide~~
26 ~~services.~~

27 ~~"Permissible use." The use of funds for any of the following~~
28 ~~reasons:~~

29 ~~(1) An illness or accident.~~

30 ~~(2) The birth or adoption of a child of the app based~~

1 ~~worker.~~

2 ~~(3) A Federal or Governor declared state of emergency.~~

3 ~~(4) An earnings loss.~~

4 ~~(5) Transferring funds to an individual retirement~~
5 ~~account.~~

6 ~~(6) Covering expenses incurred for premiums for health~~
7 ~~insurance coverage in the individual market.~~

8 ~~"Portable benefit account." A financial account that meets~~
9 ~~all of the following:~~

10 ~~(1) From which amounts may be withdrawn for a~~
11 ~~permissible use.~~

12 ~~(2) The requirements of this chapter.~~

13 ~~(3) Is administered by a portable benefit account~~
14 ~~provider.~~

15 ~~"Portable benefit account provider." An institution or~~
16 ~~interstate bank, as defined in section 102 of the the Banking~~
17 ~~Code of 1965, or another financial services entity which~~
18 ~~demonstrates to the satisfaction of the Secretary of Banking and~~
19 ~~Securities that the manner in which it will administer the~~
20 ~~portable benefit account will be consistent with the portable~~
21 ~~benefit account requirements under this chapter.~~

22 ~~"Quarter." Each of the following time periods:~~

23 ~~(1) January 1 through March 31.~~

24 ~~(2) April 1 through June 30.~~

25 ~~(3) July 1 through September 30.~~

26 ~~(4) October 1 through December 31.~~

27 ~~"Rideshare request." A request to provide a prearranged ride~~
28 ~~as defined in 66 Pa.C.S. § 102 (relating to definitions) or 53~~
29 ~~Pa.C.S. § 57A01 (relating to definitions).~~

30 ~~"Transportation network company." An entity that meets the~~

1 ~~definition of a transportation network company under 66 Pa.C.S.~~
2 ~~§ 102 or 53 Pa.C.S. § 57A01.~~

3 ~~"Transportation network company driver." An individual who~~
4 ~~meets the definition of a transportation network company driver~~
5 ~~under 66 Pa.C.S. § 102 or 53 Pa.C.S. § 57A01.~~

6 CHAPTER 3

7 PORTABLE BENEFITS FOR

8 APP-BASED WORKERS

9 Section 301. Contributions.

10 ~~(a) Network company contributions. A network company shall,~~
11 ~~by each allocation date, contribute to a portable benefit~~
12 ~~account of an eligible worker an amount equal to 4% of an~~
13 ~~eligible worker's earnings in the immediately preceding quarter~~
14 ~~earned through that network company. The allocation date may not~~
15 ~~be more than 30 days after the last day of the quarter.~~

16 ~~(b) Initial contribution. The first contribution to an~~
17 ~~eligible worker's portable benefit account by a network company~~
18 ~~under subsection (a) shall be made on the first allocation date~~
19 ~~following the eligible worker's eligibility date with respect to~~
20 ~~the network company.~~

21 ~~(c) Worker contributions. A network company shall do all of~~
22 ~~the following:~~

23 ~~(1) Allow an eligible worker to elect to contribute to~~
24 ~~the eligible worker's portable benefit account.~~

25 ~~(2) Deduct the amount elected under paragraph (1) by the~~
26 ~~eligible worker from the eligible worker's earnings and~~
27 ~~designate the amount for contribution to the portable benefit~~
28 ~~account.~~

29 ~~(3) Deposit deductions elected under paragraph (1) into~~
30 ~~the eligible worker's portable benefit account on a quarterly~~

1 ~~basis, no later than seven days following the allocation date~~
2 ~~for the quarter.~~

3 ~~(d) Source of contributions. Contributions made by a~~
4 ~~network company or eligible worker under subsection (a) or (c)~~
5 ~~shall be made in cash and, with respect to contributions made~~
6 ~~under subsection (a), come from the network company's general~~
7 ~~assets and not be deducted or drawn from an eligible worker's~~
8 ~~earnings.~~

9 ~~(e) Election. An eligible worker shall elect a portable~~
10 ~~benefit account and inform the network company at least 30 days~~
11 ~~prior to the allocation date. If an eligible worker does not~~
12 ~~inform the network company of the election at least 30 days~~
13 ~~prior to the allocation date, contributions shall be made to the~~
14 ~~default account. The following apply:~~

15 ~~(1) Each network company shall ensure that the default~~
16 ~~portable benefit account offered by the network company makes~~
17 ~~available at least three individual retirement account~~
18 ~~providers from which an eligible worker may select.~~

19 ~~(2) A portable benefit account provider must demonstrate~~
20 ~~to the satisfaction of the Secretary of Banking and~~
21 ~~Securities that the manner in which the entity will~~
22 ~~administer the portable benefit account shall be consistent~~
23 ~~with the portable benefit account requirements under this~~
24 ~~chapter.~~

25 ~~(f) Transfer limit. Notwithstanding any other provision of~~
26 ~~this chapter, transfers made from a portable benefit account to~~
27 ~~an individual retirement account offered under the portable~~
28 ~~benefit account may not exceed the annual contribution limit~~
29 ~~established by the Internal Revenue Service for contributions to~~
30 ~~an individual retirement account for the tax year in which the~~

1 ~~transfer is made.~~

2 ~~Section 302. Portable benefit account distributions.~~

3 ~~(a) Distributions. An eligible worker who has deposited~~
4 ~~money into a portable benefit account may receive a distribution~~
5 ~~of an amount if the portable benefit account provider determines~~
6 ~~that the distribution is for a permissible use.~~

7 ~~(b) Commingling prohibited. Assets in a portable benefit~~
8 ~~account shall not be commingled with other property except in a~~
9 ~~common trust fund or common investment fund.~~

10 ~~(c) Death of eligible worker. For the death of an eligible~~
11 ~~worker, the entire balance remaining in the portable benefit~~
12 ~~account of the eligible worker shall be distributed in the form~~
13 ~~of a direct trustee to trustee transfer to the individual~~
14 ~~retirement account of the eligible worker under the portable~~
15 ~~benefit account.~~

16 ~~Section 303. Occupational accident insurance.~~

17 ~~(a) Purchase of insurance. Within 240 days of the effective~~
18 ~~date of this subsection, each network company shall purchase~~
19 ~~occupational accident insurance for app based workers who~~
20 ~~provide services through their network to cover medical expenses~~
21 ~~and lost income resulting from injuries suffered while an app~~
22 ~~based worker is engaged on the network company's online enabled~~
23 ~~application or platform. The requirement to purchase~~
24 ~~occupational accident insurance may be satisfied through the~~
25 ~~purchase of blanket accident and sickness insurance, as~~
26 ~~specified in section 621.3(a) of the act of May 17, 1921~~
27 ~~(P.L.682, No.284), known as The Insurance Company Law of 1921,~~
28 ~~covering groups of persons under a policy issued to network~~
29 ~~companies under this section.~~

30 ~~(b) Holder of insurance. No later than 30 days after the~~

1 ~~commencement of a new policy year, each network company shall~~
2 ~~file with the Insurance Commissioner a copy of the policy that~~
3 ~~the network company has purchased for delivery network company~~
4 ~~couriers and transportation network company drivers,~~
5 ~~respectively. The following apply:~~

6 ~~(1) The Insurance Commissioner shall be treated as a~~
7 ~~certificate holder for purposes of receiving notice of~~
8 ~~cancellation or nonrenewal of the policy.~~

9 ~~(2) The policy shall be filed with the Insurance~~
10 ~~Commissioner by the network company at least 30 days prior to~~
11 ~~the effective date of the cancellation or nonrenewal of the~~
12 ~~policy.~~

13 ~~(c) Insurance necessary to operate business. On or after~~
14 ~~the date that is 240 days after the effective date of this~~
15 ~~subsection, a network company may not operate in this~~
16 ~~Commonwealth unless the network company carries, provides or~~
17 ~~otherwise makes available occupational accident insurance.~~

18 ~~(d) Minimum coverage requirements. An occupational accident~~
19 ~~insurance policy under subsection (a) must provide the following~~
20 ~~regarding an app based worker:~~

21 ~~(1) Coverage for medical expenses incurred, for at least~~
22 ~~\$250,000 and 104 weeks following the injury.~~

23 ~~(2) Continuous total disability payments and temporary~~
24 ~~total disability payments in an amount equal to 66% of the~~
25 ~~app based worker's average weekly earnings from all network~~
26 ~~companies as of the date of injury. Minimum and maximum~~
27 ~~weekly payment amounts shall be determined in accordance with~~
28 ~~sections 105.1 and 105.2 of the act of June 2, 1915 (P.L.736,~~
29 ~~No.338), known as the Workers' Compensation Act, for up to~~
30 ~~the first 104 weeks following the injury.~~

1 ~~(3) For the benefit of spouses, children or other~~
2 ~~dependents of the app based worker, accidental death~~
3 ~~insurance in an amount equal to 66% of the app based worker's~~
4 ~~average weekly earnings from all network companies as of the~~
5 ~~date of injury, with minimum and maximum weekly payment~~
6 ~~amounts to be determined in accordance with sections 105.1~~
7 ~~and 105.2 of the Workers' Compensation Act, multiplied by 104~~
8 ~~weeks for injuries suffered by the app based worker while the~~
9 ~~app based worker is engaged on the network company's online~~
10 ~~enabled application or platform that result in death.~~

11 ~~(c) Terms of engagement. For purposes of this section, an~~
12 ~~app based worker is engaged on a network company's platform from~~
13 ~~the time period beginning when the app based worker accepts a~~
14 ~~rideshare request or delivery request to when the app based~~
15 ~~worker completes that rideshare request or delivery request as~~
16 ~~recorded in the network company's online enabled application or~~
17 ~~platform.~~

18 ~~(f) Multiple insurance policies. If an accident is covered~~
19 ~~by occupational accident insurance maintained by more than one~~
20 ~~network company, the insurer of the network company against whom~~
21 ~~a claim is filed is entitled to contribution for the pro rata~~
22 ~~share of coverage attributable to one or more other network~~
23 ~~companies up to the coverages and limits specified in this~~
24 ~~section.~~

25 ~~(g) Benefits. Benefits provided to an app based worker~~
26 ~~under this section shall be considered amounts payable under a~~
27 ~~worker's compensation law or disability benefit for the purpose~~
28 ~~of determining amounts payable under insurance provided under 75~~
29 ~~Pa.C.S. Ch. 17 Subch. C (relating to uninsured and underinsured~~
30 ~~motorist coverage).~~

1 ~~(h) Conflict. If there is a conflict between the provisions~~
2 ~~of this act and the Workers' Compensation Act, the provisions of~~
3 ~~this act shall control.~~

4 CHAPTER 5

5 MISCELLANEOUS PROVISIONS

6 Section 501. App based worker status.

7 ~~(a) Discrimination prohibited. It shall be unlawful for a~~
8 ~~network company, unless based upon a bona fide occupation~~
9 ~~qualification or public or worker safety need, to refuse to~~
10 ~~contract with, terminate the contract of or deactivate from the~~
11 ~~network company's online enabled application or platform any~~
12 ~~app based worker based upon age, race, creed, color, national~~
13 ~~origin, sexual orientation, gender identity or expression,~~
14 ~~military status, sex, disability, predisposing genetic~~
15 ~~characteristics, familial status, marital status or status as a~~
16 ~~victim of domestic violence.~~

17 ~~(b) Independent contractor. Notwithstanding any other~~
18 ~~provision of law, including the act of June 2, 1915 (P.L.736,~~
19 ~~No.338), known as the Workers' Compensation Act, the act of~~
20 ~~December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as~~
21 ~~the Unemployment Compensation Law, and the act of January 17,~~
22 ~~1968 (P.L.11, No.5), known as The Minimum Wage Act of 1968 and~~
23 ~~any orders, regulations or opinions, an app based worker shall~~
24 ~~be deemed an independent contractor and not an employee or agent~~
25 ~~with respect to the app based worker's relationship with a~~
26 ~~network company if the following conditions are met:~~

27 ~~(1) The network company does not unilaterally prescribe~~
28 ~~specific dates, times of day or a minimum number of hours~~
29 ~~during which the app based worker must be logged into the~~
30 ~~network company's online enabled application or platform.~~

1 ~~(2) The network company does not terminate the contract~~
2 ~~of the app based worker for not accepting a specific request~~
3 ~~for services.~~

4 ~~(3) The network company does not restrict the app based~~
5 ~~worker from performing services through other network~~
6 ~~companies' platforms except while performing services through~~
7 ~~the network company's own online enabled application or~~
8 ~~platform.~~

9 ~~(4) The network company does not contractually restrict~~
10 ~~the app based worker from working in any other lawful~~
11 ~~occupation or business.~~

12 Section 502. Severability.

13 ~~(a) General rule. Except as provided under subsection (b),~~
14 ~~the provisions of this act are severable. If any provision of~~
15 ~~this act or its application to any person or circumstance is~~
16 ~~held invalid, the invalidity shall not affect other provisions~~
17 ~~or applications of this act which can be given effect without~~
18 ~~the invalid provision or application.~~

19 ~~(b) Exception. Notwithstanding subsection (a), if section~~
20 ~~501 is held to be invalid by a decision of any court of~~
21 ~~competent jurisdiction, the decision shall apply to the entirety~~
22 ~~of the remaining provisions of this act, and no provision of~~
23 ~~this act shall be deemed valid or given force of law.~~

24 Section 503. Statewide uniformity.

25 ~~A provision of a local law or ordinance, or a rule or~~
26 ~~regulation promulgated on or after the effective date of this~~
27 ~~section, which governs the relationship between a network~~
28 ~~company and an app based worker shall, upon the effective date~~
29 ~~of this section, be preempted.~~

30 Section 504. Effective date.

1 ~~This act shall take effect in 30 days.~~

2 CHAPTER 1

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3 PRELIMINARY PROVISIONS

4 SECTION 101. SHORT TITLE.

5 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE APP-BASED
6 WORKERS BENEFITS AND PROTECTIONS ACT.

7 SECTION 102. FINDINGS AND DECLARATIONS.

8 THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

9 (1) APP-BASED WORKERS WHO ARE DRIVERS OR COURIERS ARE
10 PROVIDING ESSENTIAL SERVICES TO THEIR COMMUNITIES.

11 (2) APP-BASED WORKERS WHO ARE DRIVERS OR COURIERS RETAIN
12 FULL CONTROL OVER WHERE, WHEN AND HOW THEY PERFORM APP-BASED
13 SERVICES OR WORK AND ARE THEREFORE CLASSIFIED AS INDEPENDENT
14 CONTRACTORS.

15 (3) INDEPENDENT CONTRACTORS MAY NOT BE ENTITLED TO SOME
16 OF THE PROTECTIONS AND BENEFITS AVAILABLE TO EMPLOYEES. TO
17 PROTECT ALL OF OUR PENNSYLVANIA WORKERS, A PORTABLE BENEFITS
18 FRAMEWORK FOR APP-BASED WORKERS SHOULD BE ESTABLISHED TO
19 ENABLE THE PROVISION OF INCOME REPLACEMENT, HEALTH AND
20 WELLNESS BENEFITS AND OTHER BENEFITS TO ELIGIBLE WORKERS.

21 SECTION 103. DEFINITIONS.

22 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
23 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
24 CONTEXT CLEARLY INDICATES OTHERWISE:

25 "APP-BASED WORKER." AN INDIVIDUAL:

26 (1) WHO IS A DELIVERY NETWORK COMPANY COURIER OR
27 TRANSPORTATION NETWORK COMPANY DRIVER PROVIDING SERVICES
28 WITHIN THIS COMMONWEALTH THROUGH A NETWORK COMPANY'S ONLINE-
29 ENABLED APPLICATION OR PLATFORM; AND

30 (2) WHO IS AN INDEPENDENT CONTRACTOR WITH RESPECT TO THE

1 APP-BASED WORKER'S RELATIONSHIP WITH THE NETWORK COMPANY
2 UNDER SECTION 501(B).

3 "CUSTOMER." AN INDIVIDUAL OR BUSINESS ENTITY.

4 "DELIVERY NETWORK COMPANY." A BUSINESS ENTITY THAT MAINTAINS
5 AN ONLINE-ENABLED APPLICATION OR PLATFORM USED TO FACILITATE
6 DELIVERY SERVICES WITHIN THIS COMMONWEALTH.

7 "DELIVERY NETWORK COMPANY COURIER." AN INDIVIDUAL WHO
8 PROVIDES DELIVERY SERVICES THROUGH A DELIVERY NETWORK COMPANY'S
9 ONLINE-ENABLED APPLICATION OR PLATFORM.

10 "DELIVERY SERVICES." AS FOLLOWS:

11 (1) THE FULFILLMENT OF A DELIVERY REQUEST CONSTITUTING
12 THE PICKUP FROM A LOCATION OF AN ITEM AND THE DELIVERY OF THE
13 ITEM TO ANOTHER LOCATION THAT IS SELECTED BY THE CUSTOMER AND
14 LOCATED WITHIN 50 MILES OF THE PICKUP LOCATION, BY WALKING OR
15 USING A PASSENGER VEHICLE, BICYCLE, SCOOTER, PUBLIC
16 TRANSPORTATION OR OTHER SIMILAR MEANS OF TRANSPORTATION.

17 (2) THE TERM SHALL INCLUDE THE SELECTION, COLLECTION OR
18 PURCHASE OF AN ITEM BY A DELIVERY NETWORK COMPANY COURIER IF
19 THE SELECTION, COLLECTION OR PURCHASE IS DONE IN CONNECTION
20 WITH A DELIVERY FACILITATED BY THE NETWORK COMPANY'S
21 PLATFORM.

22 (3) THE TERM DOES NOT INCLUDE ASSISTANCE WITH
23 RESIDENTIAL MOVING SERVICES.

24 "EARNINGS LOSS." A DECREASE OF AT LEAST 50% IN AN APP-BASED
25 WORKER'S MONTHLY GROSS EARNINGS FROM THE PREVIOUS MONTH THAT
26 RESULTS THROUGH NO FAULT OF THE APP-BASED WORKER.

27 "ELECTRONIC FUND TRANSFER." A PAYMENT OF ANY METHOD OF
28 ELECTRONIC FUNDS TRANSFER UNDER 15 U.S.C. § 1693A(7) (RELATING
29 TO DEFINITIONS).

30 "ELIGIBLE WORKER." AS FOLLOWS:

1 (1) AN APP-BASED WORKER WHOSE GROSS EARNINGS FROM, OR
2 ARE FACILITATED BY, A NETWORK COMPANY TOTAL AT LEAST \$1,000
3 DURING A QUARTER.

4 (2) AN APP-BASED WORKER SHALL BE CONSIDERED AN ELIGIBLE
5 WORKER FOR THE THREE QUARTERS FOLLOWING A QUARTER WITH TOTAL
6 EARNINGS WHICH MEET OR EXCEED THE LIMIT UNDER PARAGRAPH (1),
7 NOTWITHSTANDING THE AMOUNT THE APP-BASED WORKER EARNS DURING
8 THE THREE QUARTERS.

9 "FINANCIAL INSTITUTION." ANY OF THE FOLLOWING CONDUCTING
10 BUSINESS IN THIS COMMONWEALTH:

11 (1) A DEPOSITORY INSTITUTION AS DEFINED UNDER 12 U.S.C.
12 § 1813(C)(1) (RELATING TO DEFINITIONS).

13 (2) A FEDERAL CREDIT UNION OR STATE CREDIT UNION AS
14 DEFINED UNDER 12 U.S.C. § 1752 (RELATING TO DEFINITIONS),
15 INCLUDING AN INSTITUTION-AFFILIATED PARTY OF A CREDIT UNION
16 AS DEFINED UNDER 12 U.S.C. § 1786(R) (RELATING TO TERMINATION
17 OF INSURED CREDIT UNION STATUS; CEASE AND DESIST ORDERS;
18 REMOVAL OR SUSPENSION FROM OFFICE; PROCEDURE).

19 "GROSS EARNINGS." AN AMOUNT, INCLUDING INCENTIVES AND
20 BONUSES, REMITTED TO AN APP-BASED WORKER. THE TERM DOES NOT
21 INCLUDE:

22 (1) TOLL FEES, CLEANING FEES, AIRPORT FEES OR OTHER
23 CUSTOMER PASS-THROUGHS.

24 (2) AN AMOUNT REMITTED WHICH IS NOT NET OF SERVICE FEES
25 OR SIMILAR FEES CHARGED TO THE APP-BASED WORKER BY THE
26 NETWORK COMPANY.

27 (3) AN AMOUNT REMITTED WHICH INCLUDES TIPS OR
28 GRATUITIES.

29 "INDIVIDUAL RETIREMENT ACCOUNT." A TRUST CREATED UNDER 26
30 U.S.C. CH. 1 SUBCH. D PT. I (RELATING TO PENSION, PROFIT-

1 SHARING, STOCK BONUS PLANS, ETC.) AND ANY AMENDMENTS, FOR THE
2 EXCLUSIVE BENEFIT OF AN INDIVIDUAL OR THE BENEFICIARIES OF THE
3 INDIVIDUAL, OR BOTH, WHICH IS IN ACCORD WITH 26 U.S.C. § 408(A)
4 OR (H) (RELATING TO INDIVIDUAL RETIREMENT ACCOUNTS) AND
5 REGULATIONS OF THE INTERNAL REVENUE SERVICE RELATING TO SECTION
6 408(A) OR (H).

7 "INTERSTATE BANK." AS DEFINED IN SECTION 102(HH) OF THE ACT
8 OF NOVEMBER 30, 1965 (P.L.847, NO.356), KNOWN AS THE BANKING
9 CODE OF 1965.

10 "NETWORK COMPANY." A DELIVERY NETWORK COMPANY OR
11 TRANSPORTATION NETWORK COMPANY. THE TERM DOES NOT INCLUDE A
12 BUSINESS ENTITY THAT MAINTAINS AN ONLINE-ENABLED APPLICATION OR
13 PLATFORM USED TO FACILITATE PRIMARILY NONDELIVERY AND
14 NONRIDESHARE SERVICES WITHIN THIS COMMONWEALTH, FOR WHICH LESS
15 THAN 10% OF THE PLATFORM'S BUSINESS ON AN ANNUAL BASIS ARE FOR
16 DELIVERY SERVICES OR RIDESHARE SERVICES.

17 "ONLINE-ENABLED APPLICATION OR PLATFORM." AN ONLINE-ENABLED
18 APPLICATION, SOFTWARE, WEBSITE OR SYSTEM OFFERED OR UTILIZED BY
19 A NETWORK COMPANY THAT ENABLES A DELIVERY NETWORK COMPANY
20 COURIER OR TRANSPORTATION NETWORK COMPANY DRIVER TO PROVIDE
21 SERVICES.

22 "PERMISSIBLE USE." THE USE OF MONEY FOR ANY OF THE FOLLOWING
23 REASONS:

- 24 (1) AN ILLNESS OR ACCIDENT.
- 25 (2) THE BIRTH OR ADOPTION OF A CHILD OF THE APP-BASED
26 WORKER.
- 27 (3) A FEDERAL OR GOVERNOR-DECLARED STATE OF EMERGENCY
28 THAT IMPACTS THE ABILITY OF A NETWORK COMPANY DRIVER TO WORK.
- 29 (4) AN EARNINGS LOSS.
- 30 (5) TRANSFERRING MONEY TO AN INDIVIDUAL RETIREMENT

1 ACCOUNT OR PORTABLE BENEFIT ACCOUNT PROVIDED BY ANOTHER
2 NETWORK COMPANY.

3 (6) COVERING EXPENSES INCURRED FOR PREMIUMS FOR HEALTH
4 INSURANCE COVERAGE IN THE INDIVIDUAL MARKET.

5 "PORTABLE BENEFIT ACCOUNT." A FINANCIAL ACCOUNT THAT MEETS
6 ALL OF THE FOLLOWING:

7 (1) FROM WHICH AMOUNTS MAY BE WITHDRAWN FOR A
8 PERMISSIBLE USE.

9 (2) THE REQUIREMENTS OF THIS CHAPTER.

10 (3) IS ADMINISTERED BY A PORTABLE BENEFIT ACCOUNT
11 PROVIDER.

12 "PORTABLE BENEFIT ACCOUNT PROVIDER." A FINANCIAL INSTITUTION
13 ADMINISTERING THE PORTABLE BENEFIT ACCOUNT CONSISTENT WITH THE
14 REQUIREMENTS UNDER THIS CHAPTER.

15 "QUARTER." EACH OF THE FOLLOWING TIME PERIODS:

16 (1) JANUARY 1 THROUGH MARCH 31.

17 (2) APRIL 1 THROUGH JUNE 30.

18 (3) JULY 1 THROUGH SEPTEMBER 30.

19 (4) OCTOBER 1 THROUGH DECEMBER 31.

20 "RIDESHARE REQUEST." A REQUEST TO PROVIDE A PREARRANGED RIDE
21 AS DEFINED IN 66 PA.C.S. § 102 (RELATING TO DEFINITIONS) OR 53
22 PA.C.S. § 57A01 (RELATING TO DEFINITIONS).

23 "TRANSPORTATION NETWORK COMPANY." AN ENTITY THAT MEETS THE
24 DEFINITION OF A TRANSPORTATION NETWORK COMPANY UNDER 66 PA.C.S.
25 § 102 OR 53 PA.C.S. § 57A01.

26 "TRANSPORTATION NETWORK COMPANY DRIVER." AN INDIVIDUAL WHO
27 MEETS THE DEFINITION OF A TRANSPORTATION NETWORK COMPANY DRIVER
28 UNDER 66 PA.C.S. § 102 OR 53 PA.C.S. § 57A01.

29 CHAPTER 3
30 PORTABLE BENEFITS FOR

APP-BASED WORKERS

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SECTION 301. CONTRIBUTIONS.

(A) NETWORK COMPANY CONTRIBUTIONS.--EXCEPT AS PROVIDED UNDER SUBSECTION (D), A NETWORK COMPANY SHALL, BY THE 30TH DAY OF EACH QUARTER FOLLOWING A QUARTER IN WHICH AN APP-BASED WORKER QUALIFIED AS AN ELIGIBLE WORKER, CONTRIBUTE TO A PORTABLE BENEFIT ACCOUNT OF AN ELIGIBLE WORKER AN AMOUNT EQUAL TO 4% OF AN ELIGIBLE WORKER'S GROSS EARNINGS IN THE IMMEDIATELY PRECEDING QUARTER EARNED THROUGH THE NETWORK COMPANY.

(B) WORKER CONTRIBUTIONS.--A NETWORK COMPANY SHALL DO ALL OF THE FOLLOWING:

(1) ALLOW AN ELIGIBLE WORKER TO ELECT AND CONTRIBUTE A PERCENTAGE OF THE APP-BASED WORKER'S EARNINGS, WHICH MAY NOT BE LESS THAN 1% OF THE ELIGIBLE WORKER'S GROSS EARNINGS WITH THE NETWORK COMPANY, TO THE ELIGIBLE WORKER'S PORTABLE BENEFIT ACCOUNT.

(2) DEDUCT ANY AMOUNT ELECTED UNDER PARAGRAPH (1) BY THE ELIGIBLE WORKER FROM THE ELIGIBLE WORKER'S EARNINGS AND DESIGNATE THE AMOUNT FOR CONTRIBUTION TO THE PORTABLE BENEFIT ACCOUNT.

(3) DEPOSIT DEDUCTIONS ELECTED UNDER PARAGRAPH (1) INTO THE ELIGIBLE WORKER'S PORTABLE BENEFIT ACCOUNT ON A WEEKLY BASIS.

(C) SOURCE OF CONTRIBUTIONS.--CONTRIBUTIONS MADE TO A PORTABLE BENEFIT ACCOUNT UNDER THIS SECTION SHALL BE MADE BY AN ELECTRONIC FUND TRANSFER. CONTRIBUTIONS MADE UNDER SUBSECTION (A) SHALL COME FROM THE NETWORK COMPANY'S GENERAL ASSETS AND NOT BE DEDUCTED OR DRAWN FROM AN ELIGIBLE WORKER'S EARNINGS.

(D) DESIGNATION OF A PORTABLE BENEFIT ACCOUNT PROVIDER.-- WITHIN 48 HOURS FOLLOWING THE END OF A QUARTER DURING WHICH AN

1 APP-BASED WORKER INITIALLY QUALIFIES AS AN ELIGIBLE WORKER, A
2 NETWORK COMPANY SHALL PROVIDE IN WRITING TO THE ELIGIBLE WORKER
3 NOTICE OF THE WORKER'S ELIGIBILITY FOR CONTRIBUTIONS. THE NOTICE
4 SHALL EXPLAIN:

5 (1) THE ELIGIBLE WORKER MAY CHOOSE A PORTABLE BENEFIT
6 ACCOUNT PROVIDER WITH WHOM CONTRIBUTIONS FROM THE NETWORK
7 COMPANY AND THE ELIGIBLE WORKER ARE TO BE DEPOSITED BY THE
8 NETWORK COMPANY UNDER THIS SECTION. THE NOTICE SHALL SPECIFY
9 THAT THE APP-BASED WORKER:

10 (I) MAY SELECT FROM A PORTABLE BENEFIT ACCOUNT
11 PROVIDER FROM AMONG ONE OR MORE PORTABLE BENEFIT ACCOUNT
12 PROVIDERS THAT HAVE BEEN SELECTED BY THE NETWORK COMPANY
13 TO MANAGE PORTABLE BENEFIT ACCOUNTS FOR ELIGIBLE WORKERS.

14 (II) MAY DESIGNATE AN EXISTING PORTABLE BENEFIT
15 ACCOUNT BELONGING TO THE APP-BASED WORKER TO BE USED BY
16 THE NETWORK COMPANY GIVING NOTICE UNDER THIS SECTION AS
17 THE PORTABLE BENEFIT ACCOUNT UPON BECOMING AN ELIGIBLE
18 WORKER. THE NOTICE SHALL SPECIFY INFORMATION NECESSARY TO
19 DESIGNATE AN EXISTING PORTABLE BENEFIT ACCOUNT UNDER THIS
20 PARAGRAPH.

21 (III) MAY OPT-OUT OF OPENING A PORTABLE BENEFIT
22 ACCOUNT AT WHICH POINT NO ACCOUNT SHALL BE OPENED AND A
23 NETWORK COMPANY WILL NOT MAKE ANY CONTRIBUTIONS UNDER
24 SUBSECTION (A).

25 (2) THE METHOD BY WHICH AN APP-BASED WORKER MUST
26 COMMUNICATE THE DESIGNATION OF A PORTABLE BENEFIT ACCOUNT
27 PROVIDER.

28 (3) A NETWORK COMPANY SHALL PROVIDE AN ELIGIBLE WORKER
29 WITH AT LEAST 15 DAYS FOLLOWING RECEIPT OF THE NOTICE
30 REQUIRED BY THIS SUBSECTION TO DESIGNATE A PORTABLE BENEFIT

1 ACCOUNT PROVIDER OR OPT OUT OF A PORTABLE BENEFIT ACCOUNT.
2 FAILURE TO COMMUNICATE THE DESIGNATION OF A PORTABLE BENEFIT
3 ACCOUNT PROVIDER WILL RESULT IN A PORTABLE BENEFIT ACCOUNT
4 FOR THE APP-BASED WORKER, UPON BECOMING AN ELIGIBLE WORKER,
5 BEING SET UP THROUGH A DEFAULT PROVIDER CHOSEN BY THE NETWORK
6 COMPANY.

7 (4) THE NAME AND INFORMATION OF THE DEFAULT PORTABLE
8 BENEFIT ACCOUNT PROVIDER THAT THE NETWORK COMPANY INTENDS TO
9 SELECT IF AN APP-BASED WORKER FOR ANY REASON DOES NOT
10 DESIGNATE A PORTABLE BENEFIT ACCOUNT PROVIDER.

11 (5) THAT DISBURSEMENTS FROM A PORTABLE BENEFIT ACCOUNT
12 FOR ANY PERMISSIBLE USE OTHER THAN A TRANSFER TO AN
13 INDIVIDUAL RETIREMENT ACCOUNT OR ANOTHER PORTABLE BENEFIT
14 ACCOUNT WILL RESULT IN THE INCOME NO LONGER BEING EXEMPTED
15 FROM TAXATION UNDER SUBSECTION (G).

16 (E) CHANGE OF DESIGNATION.--A NETWORK COMPANY SHALL
17 ESTABLISH A PROCESS BY WHICH AN APP-BASED WORKER WHO HAS OPTED
18 OUT OF A PORTABLE BENEFIT ACCOUNT MAY NOTIFY THE NETWORK COMPANY
19 OF THE WORKER'S DESIRE TO OPEN A PORTABLE BENEFIT ACCOUNT.
20 FOLLOWING NOTIFICATION OF THE APP-BASED WORKER'S DESIRE TO OPEN
21 A PORTABLE BENEFIT ACCOUNT, IF THE APP-BASED WORKER CONTINUES TO
22 MEET THE REQUIREMENTS FOR AN ELIGIBLE WORKER, THE NETWORK
23 COMPANY SHALL OPEN A PORTABLE BENEFIT ACCOUNT AND BEGIN
24 CONTRIBUTIONS UNDER SUBSECTIONS (A) AND (B) IN THE SUBSEQUENT
25 QUARTER.

26 (F) DEFAULT PORTABLE BENEFIT PROVIDER.--IF A NETWORK COMPANY
27 ESTABLISHES A PORTABLE BENEFIT ACCOUNT FOR AN ELIGIBLE WORKER
28 THROUGH A DEFAULT PORTABLE BENEFIT PROVIDER, THE NETWORK COMPANY
29 SHALL PROVIDE IN WRITING TO THE ELIGIBLE WORKER NOTICE DETAILING
30 THE ESTABLISHMENT OF THE ACCOUNT AND INFORMATION ON HOW TO

1 ACCESS FUNDS FOR PERMISSIBLE USES UNDER THIS ACT NO LATER THAN
2 30 DAYS FOLLOWING THE ESTABLISHMENT OF THE PORTABLE BENEFIT
3 ACCOUNT.

4 (G) EXEMPTION.--CONTRIBUTIONS INTO A PORTABLE BENEFIT
5 ACCOUNT SHALL BE EXEMPT FROM TAXATION UNDER ARTICLE III OF THE
6 ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE
7 OF 1971, AND MAY NOT BE CONSIDERED AS TAXABLE INCOME FOR THE
8 ELIGIBLE WORKER UNLESS DISBURSED FROM A PORTABLE BENEFIT ACCOUNT
9 FOR A PERMISSIBLE USE OTHER THAN A TRANSFER TO AN INDIVIDUAL
10 RETIREMENT ACCOUNT OR ANOTHER PORTABLE BENEFIT ACCOUNT BELONGING
11 TO THE ELIGIBLE WORKER.

12 SECTION 302. PORTABLE BENEFIT ACCOUNT DISTRIBUTIONS.

13 (A) DISTRIBUTIONS.--AN ELIGIBLE WORKER WHO HAS DEPOSITED
14 MONEY INTO A PORTABLE BENEFIT ACCOUNT MAY RECEIVE A DISTRIBUTION
15 FOR A PERMISSIBLE USE.

16 (B) COMMINGLING PROHIBITED.--ASSETS IN A PORTABLE BENEFIT
17 ACCOUNT SHALL NOT BE COMMINGLED WITH OTHER ACCOUNTS OF AN
18 ELIGIBLE WORKER AT A FINANCIAL INSTITUTION OUTSIDE OF A PORTABLE
19 BENEFIT ACCOUNT UNLESS AUTHORIZED UNDER THIS CHAPTER.

20 (C) DEATH OF ELIGIBLE WORKER.--AFTER THE DEATH OF AN
21 ELIGIBLE WORKER, THE ENTIRE BALANCE REMAINING IN THE PORTABLE
22 BENEFIT ACCOUNT OF THE ELIGIBLE WORKER SHALL BE DISTRIBUTED IN
23 ACCORDANCE WITH THE RELEVANT PROVISIONS OF 20 PA.C.S. (RELATING
24 TO DECEDENTS, ESTATES AND FIDUCIARIES).

25 CHAPTER 5

26 MISCELLANEOUS PROVISIONS

27 SECTION 501. APP-BASED WORKER STATUS.

28 (A) DISCRIMINATION PROHIBITED.--IT SHALL BE UNLAWFUL FOR A
29 NETWORK COMPANY, UNLESS BASED UPON A BONA FIDE OCCUPATIONAL
30 QUALIFICATION OR PUBLIC OR WORKER SAFETY NEED, TO REFUSE TO

1 CONTRACT WITH, TERMINATE THE CONTRACT OF OR DEACTIVATE FROM THE
2 NETWORK COMPANY'S ONLINE-ENABLED APPLICATION OR PLATFORM ANY
3 APP-BASED WORKER BASED ON THE CHARACTERISTICS IDENTIFIED IN
4 SECTION 5 OF THE ACT OF OCTOBER 27, 1955 (P.L.744, NO.222),
5 KNOWN AS THE PENNSYLVANIA HUMAN RELATIONS ACT.

6 (B) INDEPENDENT CONTRACTOR.--NOTWITHSTANDING ANY OTHER
7 PROVISION OF LAW, INCLUDING THE ACT OF JUNE 2, 1915 (P.L.736,
8 NO.338), KNOWN AS THE WORKERS' COMPENSATION ACT, THE ACT OF
9 DECEMBER 5, 1936 (2ND SP.SESS., 1937 P.L.2897, NO.1), KNOWN AS
10 THE UNEMPLOYMENT COMPENSATION LAW, AND THE ACT OF JANUARY 17,
11 1968 (P.L.11, NO.5), KNOWN AS THE MINIMUM WAGE ACT OF 1968, AND
12 ANY ORDERS, REGULATIONS OR OPINIONS, AN APP-BASED WORKER SHALL
13 BE DEEMED AN INDEPENDENT CONTRACTOR AND NOT AN EMPLOYEE OR AGENT
14 FOR ALL PURPOSES WITH RESPECT TO THE APP-BASED WORKER'S
15 RELATIONSHIP WITH A NETWORK COMPANY IF THE FOLLOWING CONDITIONS
16 ARE MET:

17 (1) THE NETWORK COMPANY DOES NOT UNILATERALLY PRESCRIBE
18 SPECIFIC DATES, TIMES OF DAY OR A MINIMUM NUMBER OF HOURS
19 DURING WHICH THE APP-BASED WORKER MUST BE LOGGED INTO THE
20 NETWORK COMPANY'S ONLINE-ENABLED APPLICATION OR PLATFORM.

21 (2) THE NETWORK COMPANY DOES NOT TERMINATE THE CONTRACT
22 OF THE APP-BASED WORKER FOR NOT ACCEPTING A SPECIFIC REQUEST
23 FOR SERVICES.

24 (3) THE NETWORK COMPANY DOES NOT RESTRICT THE APP-BASED
25 WORKER FROM PERFORMING SERVICES THROUGH OTHER NETWORK
26 COMPANIES' PLATFORMS EXCEPT WHILE PERFORMING SERVICES THROUGH
27 THE NETWORK COMPANY'S OWN ONLINE-ENABLED APPLICATION OR
28 PLATFORM.

29 (4) THE NETWORK COMPANY DOES NOT CONTRACTUALLY RESTRICT
30 THE APP-BASED WORKER FROM WORKING IN ANY OTHER LAWFUL

1 OCCUPATION OR BUSINESS.

2 SECTION 502. SEVERABILITY.

3 (A) GENERAL RULE.--EXCEPT AS PROVIDED UNDER SUBSECTION (B),
4 THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY PROVISION OF
5 THIS ACT OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS
6 HELD INVALID, THE INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS
7 OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN EFFECT WITHOUT
8 THE INVALID PROVISION OR APPLICATION.

9 (B) EXCEPTION.--NOTWITHSTANDING SUBSECTION (A), IF SECTION
10 501 IS HELD TO BE INVALID BY A DECISION OF ANY COURT OF
11 COMPETENT JURISDICTION, THE DECISION SHALL APPLY TO THE ENTIRETY
12 OF THE REMAINING PROVISIONS OF THIS ACT, AND NO PROVISION OF
13 THIS ACT SHALL BE DEEMED VALID OR GIVEN FORCE OF LAW.

14 (C) EXISTING PORTABLE BENEFIT ACCOUNTS.--IF SECTION 501 IS
15 HELD BY ANY COURT TO BE INVALID, THE PORTABLE BENEFIT ACCOUNT
16 AND CONTRIBUTIONS MADE BY AN ELIGIBLE WORKER AND A NETWORK
17 COMPANY SHALL REMAIN THE PROPERTY OF THE ELIGIBLE WORKER
18 ASSOCIATED WITH THE PORTABLE BENEFIT ACCOUNT.

19 SECTION 503. STATEWIDE UNIFORMITY.

20 A PROVISION OF A LOCAL LAW OR ORDINANCE, OR A RULE OR
21 REGULATION PROMULGATED ON OR AFTER THE EFFECTIVE DATE OF THIS
22 SECTION, WHICH GOVERNS THE RELATIONSHIP BETWEEN A NETWORK
23 COMPANY AND AN APP-BASED WORKER SHALL, UPON THE EFFECTIVE DATE
24 OF THIS SECTION, BE PREEMPTED.

25 SECTION 504. EFFECTIVE DATE.

26 THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

27 (1) CHAPTER 3 SHALL TAKE EFFECT IN 180 DAYS.

28 (2) THIS SECTION AND THE REMAINDER OF THIS ACT SHALL
29 TAKE EFFECT IMMEDIATELY.