
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 967 Session of
2023

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

REFERRED TO BANKING AND INSURANCE, NOVEMBER 21, 2023

AN ACT

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

3 TABLE OF CONTENTS

4 Chapter 1. Preliminary Provisions

5 Section 101. Short title.

6 Section 102. Findings and declarations.

7 Section 103. Definitions.

8 Chapter 3. Portable Benefits for App-Based Workers

9 Section 301. Contributions.

10 Section 302. Portable benefit account distributions.

11 Section 303. Occupational accident insurance.

12 Chapter 5. Miscellaneous Provisions

13 Section 501. App-based worker status.

14 Section 502. Severability.

15 Section 503. Statewide uniformity.

16 Section 504. Effective date.

17 The General Assembly of the Commonwealth of Pennsylvania

18 hereby enacts as follows:

1 CHAPTER 1

2 PRELIMINARY PROVISIONS

3 Section 101. Short title.

4 This act shall be known and may be cited as the App-Based
5 Workers Benefits and Protections Act.

6 Section 102. Findings and declarations.

7 The General Assembly finds and declares as follows:

8 (1) App-based workers who are drivers or couriers are
9 providing essential services to their communities.

10 (2) App-based workers who are drivers or couriers retain
11 full control over where, when and how they perform app-based
12 services or work and are therefore classified as independent
13 contractors.

14 (3) Independent contractors may not be entitled to some
15 of the protections and benefits available to employees. To
16 protect all of our Pennsylvania workers:

17 (i) A portable benefits framework for app-based
18 workers should be established to enable the provision of
19 income replacement, health and wellness benefits and
20 other benefits to eligible workers.

21 (ii) A separate occupational accident insurance
22 requirement for network companies to purchase should be
23 established.

24 Section 103. Definitions.

25 The following words and phrases when used in this act shall
26 have the meanings given to them in this section unless the
27 context clearly indicates otherwise:

28 "Allocation date." The date following the last day of a
29 quarter on which a network company makes a quarterly deposit
30 into a portable benefit account.

1 "App-based worker." An individual:

2 (1) who is a delivery network company courier or
3 transportation network company driver providing services
4 within this Commonwealth through a network company's online-
5 enabled application or platform; and

6 (2) who is an independent contractor with respect to the
7 app-based worker's relationship with the network company
8 under section 501(b).

9 "Average weekly earnings." An app-based worker's total
10 earnings from all network companies during a 28-day period
11 divided by four.

12 "Customer." An individual or business entity.

13 "Delivery network company." A business entity that maintains
14 an online-enabled application or platform used to facilitate
15 delivery services within this Commonwealth.

16 "Delivery network company courier." An individual who
17 provides delivery services through a delivery network company's
18 online-enabled application or platform.

19 "Delivery services." As follows:

20 (1) The fulfillment of a delivery request constituting
21 the pickup from a location of an item and the delivery of the
22 item to another location that is selected by the customer and
23 located within 50 miles of the pickup location, by walking or
24 using a passenger vehicle, bicycle, scooter, public
25 transportation or other similar means of transportation.

26 (2) The term shall include the selection, collection or
27 purchase of an item by a delivery network company courier if
28 the selection, collection or purchase is done in connection
29 with a delivery facilitated by the network company's
30 platform.

1 (3) The term does not include assistance with
2 residential moving services.

3 "Earnings." An amount, including an incentive and bonus,
4 remitted to an app-based worker. The term does not include:

5 (1) Toll fees, cleaning fees, airport fees or other
6 customer pass-throughs.

7 (2) An amount remitted which is not net of service fees
8 or similar fees charged to the app-based worker by the
9 network company.

10 (3) An amount remitted which includes tips or
11 gratuities.

12 "Earnings loss." A decrease of at least 50% in an app-based
13 worker's monthly earnings from the previous month that results
14 through no fault of the app-based worker.

15 "Eligibility date." The first day of a quarter, occurring
16 365 days after the effective date of this definition, during
17 which an app-based worker qualifies as an eligible worker.

18 "Eligible worker." As follows:

19 (1) An app-based worker whose earnings from, or
20 facilitated by, a network company total at least \$1,000
21 during a quarter.

22 (2) An app-based worker shall be considered an eligible
23 worker for the three quarters following the quarter of
24 eligibility under paragraph (1), notwithstanding the amount
25 the app-based worker earns during the three quarters.

26 "Institution." As defined in section 102(r) of the act of
27 November 30, 1965 (P.L.847, No.356), known as the Banking Code
28 of 1965.

29 "Interstate bank." As defined in section 102(hh) of the
30 Banking Code of 1965.

1 "Network company." A delivery network company or
2 transportation network company. The term does not include a
3 business entity that maintains an online-enabled application or
4 platform used to facilitate primarily nondelivery and
5 nonrideshare services within this Commonwealth, for which less
6 than 10% of the platform's business on an annual basis are for
7 delivery services or rideshare services.

8 "Online-enabled application or platform." An online-enabled
9 application, software, website or system offered or utilized by
10 a network company that enables a delivery network company
11 courier or transportation network company driver to provide
12 services.

13 "Permissible use." The use of funds for any of the following
14 reasons:

15 (1) An illness or accident.

16 (2) The birth or adoption of a child of the app-based
17 worker.

18 (3) A Federal or Governor-declared state of emergency.

19 (4) An earnings loss.

20 (5) Transferring funds to an individual retirement
21 account.

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

24 "Portable benefit account." A financial account that meets
25 all of the following:

26 (1) From which amounts may be withdrawn for a
27 permissible use.

28 (2) The requirements of this chapter.

29 (3) Is administered by a portable benefit account
30 provider.

1 "Portable benefit account provider." An institution or
2 interstate bank, as defined in section 102 of the the Banking
3 Code of 1965, or another financial services entity which
4 demonstrates to the satisfaction of the Secretary of Banking and
5 Securities that the manner in which it will administer the
6 portable benefit account will be consistent with the portable
7 benefit account requirements under this chapter.

8 "Quarter." Each of the following time periods:

9 (1) January 1 through March 31.

10 (2) April 1 through June 30.

11 (3) July 1 through September 30.

12 (4) October 1 through December 31.

13 "Rideshare request." A request to provide a prearranged ride
14 as defined in 66 Pa.C.S. § 102 (relating to definitions) or 53
15 Pa.C.S. § 57A01 (relating to definitions).

16 "Transportation network company." An entity that meets the
17 definition of a transportation network company under 66 Pa.C.S.
18 § 102 or 53 Pa.C.S. § 57A01.

19 "Transportation network company driver." An individual who
20 meets the definition of a transportation network company driver
21 under 66 Pa.C.S. § 102 or 53 Pa.C.S. § 57A01.

22 CHAPTER 3

23 PORTABLE BENEFITS FOR

24 APP-BASED WORKERS

25 Section 301. Contributions.

26 (a) Network company contributions.--A network company shall,
27 by each allocation date, contribute to a portable benefit
28 account of an eligible worker an amount equal to 4% of an
29 eligible worker's earnings in the immediately preceding quarter
30 earned through that network company. The allocation date may not

1 be more than 30 days after the last day of the quarter.

2 (b) Initial contribution.--The first contribution to an
3 eligible worker's portable benefit account by a network company
4 under subsection (a) shall be made on the first allocation date
5 following the eligible worker's eligibility date with respect to
6 the network company.

7 (c) Worker contributions.--A network company shall do all of
8 the following:

9 (1) Allow an eligible worker to elect to contribute to
10 the eligible worker's portable benefit account.

11 (2) Deduct the amount elected under paragraph (1) by the
12 eligible worker from the eligible worker's earnings and
13 designate the amount for contribution to the portable benefit
14 account.

15 (3) Deposit deductions elected under paragraph (1) into
16 the eligible worker's portable benefit account on a quarterly
17 basis, no later than seven days following the allocation date
18 for the quarter.

19 (d) Source of contributions.--Contributions made by a
20 network company or eligible worker under subsection (a) or (c)
21 shall be made in cash and, with respect to contributions made
22 under subsection (a), come from the network company's general
23 assets and not be deducted or drawn from an eligible worker's
24 earnings.

25 (e) Election.--An eligible worker shall elect a portable
26 benefit account and inform the network company at least 30 days
27 prior to the allocation date. If an eligible worker does not
28 inform the network company of the election at least 30 days
29 prior to the allocation date, contributions shall be made to the
30 default account. The following apply:

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

5 (2) A portable benefit account provider must demonstrate
6 to the satisfaction of the Secretary of Banking and
7 Securities that the manner in which the entity will
8 administer the portable benefit account shall be consistent
9 with the portable benefit account requirements under this
10 chapter.

11 (f) Transfer limit.--Notwithstanding any other provision of
12 this chapter, transfers made from a portable benefit account to
13 an individual retirement account offered under the portable
14 benefit account may not exceed the annual contribution limit
15 established by the Internal Revenue Service for contributions to
16 an individual retirement account for the tax year in which the
17 transfer is made.

18 Section 302. Portable benefit account distributions.

19 (a) Distributions.--An eligible worker who has deposited
20 money into a portable benefit account may receive a distribution
21 of an amount if the portable benefit account provider determines
22 that the distribution is for a permissible use.

23 (b) Commingling prohibited.--Assets in a portable benefit
24 account shall not be commingled with other property except in a
25 common trust fund or common investment fund.

26 (c) Death of eligible worker.--For the death of an eligible
27 worker, the entire balance remaining in the portable benefit
28 account of the eligible worker shall be distributed in the form
29 of a direct trustee-to-trustee transfer to the individual
30 retirement account of the eligible worker under the portable

1 benefit account.

2 Section 303. Occupational accident insurance.

3 (a) Purchase of insurance.--Within 240 days of the effective
4 date of this subsection, each network company shall purchase
5 occupational accident insurance for app-based workers who
6 provide services through their network to cover medical expenses
7 and lost income resulting from injuries suffered while an app-
8 based worker is engaged on the network company's online-enabled
9 application or platform. The requirement to purchase
10 occupational accident insurance may be satisfied through the
11 purchase of blanket accident and sickness insurance, as
12 specified in section 621.3(a) of the act of May 17, 1921
13 (P.L.682, No.284), known as The Insurance Company Law of 1921,
14 covering groups of persons under a policy issued to network
15 companies under this section.

16 (b) Holder of insurance.--No later than 30 days after the
17 commencement of a new policy year, each network company shall
18 file with the Insurance Commissioner a copy of the policy that
19 the network company has purchased for delivery network company
20 couriers and transportation network company drivers,
21 respectively. The following apply:

22 (1) The Insurance Commissioner shall be treated as a
23 certificate holder for purposes of receiving notice of
24 cancellation or nonrenewal of the policy.

25 (2) The policy shall be filed with the Insurance
26 Commissioner by the network company at least 30 days prior to
27 the effective date of the cancellation or nonrenewal of the
28 policy.

29 (c) Insurance necessary to operate business.--On or after
30 the date that is 240 days after the effective date of this

1 subsection, a network company may not operate in this
2 Commonwealth unless the network company carries, provides or
3 otherwise makes available occupational accident insurance.

4 (d) Minimum coverage requirements.--An occupational accident
5 insurance policy under subsection (a) must provide the following
6 regarding an app-based worker:

7 (1) Coverage for medical expenses incurred, for at least
8 \$250,000 and 104 weeks following the injury.

9 (2) Continuous total disability payments and temporary
10 total disability payments in an amount equal to 66% of the
11 app-based worker's average weekly earnings from all network
12 companies as of the date of injury. Minimum and maximum
13 weekly payment amounts shall be determined in accordance with
14 sections 105.1 and 105.2 of the act of June 2, 1915 (P.L.736,
15 No.338), known as the Workers' Compensation Act, for up to
16 the first 104 weeks following the injury.

17 (3) For the benefit of spouses, children or other
18 dependents of the app-based worker, accidental death
19 insurance in an amount equal to 66% of the app-based worker's
20 average weekly earnings from all network companies as of the
21 date of injury, with minimum and maximum weekly payment
22 amounts to be determined in accordance with sections 105.1
23 and 105.2 of the Workers' Compensation Act, multiplied by 104
24 weeks for injuries suffered by the app-based worker while the
25 app-based worker is engaged on the network company's online-
26 enabled application or platform that result in death.

27 (e) Terms of engagement.--For purposes of this section, an
28 app-based worker is engaged on a network company's platform from
29 the time period beginning when the app-based worker accepts a
30 rideshare request or delivery request to when the app-based

1 worker completes that rideshare request or delivery request as
2 recorded in the network company's online-enabled application or
3 platform.

4 (f) Multiple insurance policies.--If an accident is covered
5 by occupational accident insurance maintained by more than one
6 network company, the insurer of the network company against whom
7 a claim is filed is entitled to contribution for the pro rata
8 share of coverage attributable to one or more other network
9 companies up to the coverages and limits specified in this
10 section.

11 (g) Benefits.--Benefits provided to an app-based worker
12 under this section shall be considered amounts payable under a
13 worker's compensation law or disability benefit for the purpose
14 of determining amounts payable under insurance provided under 75
15 Pa.C.S. Ch. 17 Subch. C (relating to uninsured and underinsured
16 motorist coverage).

17 (h) Conflict.--If there is a conflict between the provisions
18 of this act and the Workers' Compensation Act, the provisions of
19 this act shall control.

20 CHAPTER 5

21 MISCELLANEOUS PROVISIONS

22 Section 501. App-based worker status.

23 (a) Discrimination prohibited.--It shall be unlawful for a
24 network company, unless based upon a bona fide occupation
25 qualification or public or worker safety need, to refuse to
26 contract with, terminate the contract of or deactivate from the
27 network company's online-enabled application or platform any
28 app-based worker based upon age, race, creed, color, national
29 origin, sexual orientation, gender identity or expression,
30 military status, sex, disability, predisposing genetic

1 characteristics, familial status, marital status or status as a
2 victim of domestic violence.

3 (b) Independent contractor.--Notwithstanding any other
4 provision of law, including the act of June 2, 1915 (P.L.736,
5 No.338), known as the Workers' Compensation Act, the act of
6 December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as
7 the Unemployment Compensation Law, and the act of January 17,
8 1968 (P.L.11, No.5), known as The Minimum Wage Act of 1968 and
9 any orders, regulations or opinions, an app-based worker shall
10 be deemed an independent contractor and not an employee or agent
11 with respect to the app-based worker's relationship with a
12 network company if the following conditions are met:

13 (1) The network company does not unilaterally prescribe
14 specific dates, times of day or a minimum number of hours
15 during which the app-based worker must be logged into the
16 network company's online-enabled application or platform.

17 (2) The network company does not terminate the contract
18 of the app-based worker for not accepting a specific request
19 for services.

20 (3) The network company does not restrict the app-based
21 worker from performing services through other network
22 companies' platforms except while performing services through
23 the network company's own online-enabled application or
24 platform.

25 (4) The network company does not contractually restrict
26 the app-based worker from working in any other lawful
27 occupation or business.

28 Section 502. Severability.

29 (a) General rule.--Except as provided under subsection (b),
30 the provisions of this act are severable. If any provision of

1 this act or its application to any person or circumstance is
2 held invalid, the invalidity shall not affect other provisions
3 or applications of this act which can be given effect without
4 the invalid provision or application.

5 (b) Exception.--Notwithstanding subsection (a), if section
6 501 is held to be invalid by a decision of any court of
7 competent jurisdiction, the decision shall apply to the entirety
8 of the remaining provisions of this act, and no provision of
9 this act shall be deemed valid or given force of law.

10 Section 503. Statewide uniformity.

11 A provision of a local law or ordinance, or a rule or
12 regulation promulgated on or after the effective date of this
13 section, which governs the relationship between a network
14 company and an app-based worker shall, upon the effective date
15 of this section, be preempted.

16 Section 504. Effective date.

17 This act shall take effect in 30 days.