

INITIATIVE PETITION FOR A LAW

Be it enacted by the People, and by their authority:

A Law Establishing that App-Based Drivers Are Not Employees, and Network Companies Are Not Employers, for Certain Purposes of the General Laws *version F*

SECTION 1. The General Laws are hereby amended by inserting after chapter 159A1/2 the following chapter:

Chapter 159AA

Section 1. Title. This chapter shall be known as the “App-Based Drivers Classification Act.”

Section 2. Purpose. The purpose of this chapter is to clarify that app-based drivers are not employees, and network companies are not employers, for purposes of chapters 149, 151, 151A or 152, guaranteeing app-based drivers the freedom and flexibility to choose when, where, how, and for whom they work.

Section 3. Classification of App-Based Drivers. Notwithstanding any general or special law, or any rule or regulation promulgated thereunder, for purposes of chapters 149, 151, 151A, or 152, an app-based driver, as defined in section 4 of this chapter, is not an employee with respect to his or her relationship with a network company and a network company is not an employer with respect to its relationship with an app-based driver.

Section 4. Definitions. For the purposes of this chapter, the following words shall have the following meanings:

“App-based driver” a person who is a DNC courier, a TNC driver, or both, who has a contract with a network company, and for whom the following requirements are met:

(a) the network company does not unilaterally prescribe specific dates, times of day, or a minimum number of hours during which the app-based driver must be logged into the network company's online-enabled application or platform;

(b) the network company may not terminate the contract of the app-based driver for not accepting a specific transportation service or delivery service request except where refusal constitutes a violation of governing federal, state, or local laws or regulations;

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(c) the network company does not restrict the app-based driver from performing services through other network companies except while performing services through the network company's online-enabled application or platform; and

(d) the network company does not contractually restrict the app-based driver from working in any other lawful occupation or business.

“Contract”, a written agreement, which may be electronic, between an app-based driver and a network company.

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

“Delivery network company courier” or “DNC courier”, a person who provides delivery services through a DNC’s online-enabled application or platform.

“Delivery services”, the fulfillment of a delivery request, meaning the pickup from any location in the Commonwealth of any item or items and the delivery of the items using a private passenger motor vehicle, bicycle, electric bicycle, motorized bicycle, scooter, motorized scooter, walking, public transportation, or other similar means of transportation, to a location selected by the customer located within 50 miles of the pickup location. A delivery request may include more than 1, but not more than 30, distinct orders placed by different customers. Delivery services may include the selection, collection, or purchase of items by a DNC courier, as well as other tasks incident to a delivery. Delivery services do not include assistance with residential moving services.

“Network company”, a business entity operating as:

- (a) a delivery network company;
- (b) a transportation network company; or
- (c) both.

“Person”, shall have the same definition as provided in clause twenty-third of section 7 of chapter 4 of the Massachusetts General Laws.

“Private passenger motor vehicle,” any passenger vehicle which has a vehicle weight rating or curb weight of 6,000 lbs. or less as per manufacturer’s description of said vehicle or is a sport utility vehicle, passenger van, or pickup truck.

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“Transportation network company” or “TNC”, shall have the same meaning as provided in section 1 of chapter 159A1/2 of the Massachusetts General Laws.

“Transportation network company driver” or “TNC driver”, a Transportation network driver, as defined in section 1 of chapter 159A1/2 of the Massachusetts General Laws, that provides transportation services, or a person operating a livery vehicle as defined in 540 CMR 2.00 on a TNC’s digital network, as defined in section 1 of chapter 159A1/2.

“Transportation services”, the provision of transportation facilitated by the digital network, as defined in section 1 of chapter 159A1/2 of the Massachusetts General Laws, of a TNC for which the pickup of the passenger occurs in the Commonwealth.

Section 5. Effective Date.

Chapter 159AA of the Massachusetts General Laws shall take effect as provided in Article 48 of the Amendments to the Massachusetts Constitution, as amended.

The undersigned qualified voters of the Commonwealth of Massachusetts have personally reviewed the final text of this initiative petition, fully subscribe to its contents, agree to be one of its original signers and have signaled that agreement by initialing each page, and hereby submit the measure for approval by the people pursuant to Article 48 of the articles of amendment of the Constitution of the Commonwealth of Massachusetts, as amended by Article 74 of said articles of amendment.

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| 1. <u>Charles D. Ellison II</u> | 11. <u>Stephene Dawson</u> |
| 2. <u>Allison K. Horgan</u> | 12. <u>Tom Kelly</u> |
| 3. <u>Brian Gitschier</u> | 13. <u>Th. R. Kelly</u> |
| 4. <u>Daniel Sirosky</u> | 14. <u>Marcel G. Giono</u> |
| 5. <u>Sam Rogan</u> | 15. <u>Alanna Kelly</u> |

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