

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Finance.

SB23-098 be amended as follows:

- 1 Strike the Appropriations Committee Report, dated April 14, 2023.
- 2 Strike the Business, Labor, and Technology Committee Report, dated
- 3 February 14, 2023.
- 4 Amend printed bill, strike everything below the enacting clause and
- 5 substitute:

6 **"SECTION 1.** In Colorado Revised Statutes, **add** 8-4-126 and

7 8-4-127 as follows:

8 **8-4-126. Transparency for transportation network companies**

9 **- disclosures - enforcement - definitions - rules - repeal.** (1) AS USED

10 IN THIS SECTION AND IN SECTION 8-4-127, UNLESS THE CONTEXT

11 OTHERWISE REQUIRES:

12 (a) "CONSUMER" MEANS AN INDIVIDUAL WHO USES A DIGITAL

13 PLATFORM TO ORDER DELIVERY SERVICES FROM A DELIVERY NETWORK

14 COMPANY OR TRANSPORTATION SERVICES FROM A TRANSPORTATION

15 NETWORK COMPANY.

16 (b) (I) "DELIVERY NETWORK COMPANY" OR "DNC" MEANS ANY

17 PERSON THAT DELIVERS GOODS OR SERVICES IN THE STATE AS A THIRD

18 PARTY AND THAT CONNECTS CONSUMERS WITH DRIVERS THROUGH A

19 DIGITAL PLATFORM.

20 (II) "DELIVERY NETWORK COMPANY" OR "DNC" DOES NOT

21 INCLUDE A MOTOR CARRIER OF TOWED MOTOR VEHICLES REGULATED BY

22 THE PUBLIC UTILITIES COMMISSION PURSUANT TO PART 4 OF ARTICLE 10.1

23 OF TITLE 40 OR A MOTOR CARRIER OF HOUSEHOLD GOODS REGULATED BY

24 THE PUBLIC UTILITIES COMMISSION PURSUANT TO PART 5 OF ARTICLE 10.1

25 OF TITLE 40.

26 (c) "DIGITAL PLATFORM" MEANS AN ONLINE APPLICATION,

27 INTERNET SITE, OR SYSTEM THAT A DELIVERY NETWORK COMPANY OR

28 TRANSPORTATION NETWORK COMPANY USES TO FACILITATE, MANAGE, OR

29 FACILITATE AND MANAGE DELIVERY SERVICES OR TRANSPORTATION

30 SERVICES.

31 (d) "DRIVER" MEANS:

32 (I) A DRIVER PROVIDING DELIVERY SERVICES FOR A DELIVERY

33 NETWORK COMPANY; OR

34 (II) A TRANSPORTATION NETWORK COMPANY DRIVER AS DEFINED

35 IN SECTION 40-10.1-602 (4).

36 (e) "PUBLIC UTILITIES COMMISSION" MEANS THE PUBLIC UTILITIES

37 COMMISSION CREATED IN SECTION 40-2-101 (1).

38 (f) "SCREEN" MEANS THE DIGITAL PLATFORM SCREEN VIEWED BY

1 THE DRIVER OR CONSUMER.

2 (g) (I) "TAKE AMOUNT" MEANS, AFTER MAKING A PAYMENT TO A
3 DRIVER, THE TOTAL AMOUNT OF MONEY THAT A TNC RETAINS FOR ITSELF
4 FROM THE MONEY THAT A CONSUMER PAYS FOR THE TRANSPORTATION
5 TASK PERFORMED BY THE DRIVER.

6 (II) "TAKE AMOUNT" INCLUDES ANY AMOUNT OF MONEY THAT A
7 TNC RETAINS FOR THE PURPOSE OF PAYING FEES, TAXES, CHARGES, OR
8 OTHER COSTS THAT THE TNC IS REQUIRED TO PAY IN CONNECTION WITH
9 THE TRANSACTION OR FOR THE GENERAL OPERATIONAL COSTS OF THE
10 TNC.

11 (h) "TAKE RATE" MEANS THE PERCENTAGE OF THE MONEY THAT A
12 CONSUMER PAYS IN CONNECTION WITH A TRANSACTION WITH A DRIVER
13 AND THAT A TNC RETAINS FOR ITSELF, INCLUDING ANY MONEY THAT THE
14 TNC RETAINS FOR PURPOSES OF PAYING FEES, TAXES, CHARGES, OR OTHER
15 COSTS THAT THE TNC IS REQUIRED TO PAY IN CONNECTION WITH THE
16 TRANSACTION OR FOR THE GENERAL OPERATIONAL COSTS OF THE TNC.

17 (i) "TIP" MEANS A TIP, GRATUITY, OR OTHER PAYMENT AMOUNT
18 THAT A CONSUMER:

19 (I) INDICATES THROUGH A DIGITAL PLATFORM AS INTENDED FOR
20 DIRECT PAYMENT TO THE DRIVER; OR

21 (II) WOULD REASONABLY EXPECT TO BE PAID IN FULL TO THE
22 DRIVER.

23 (j) "TRANSPORTATION NETWORK COMPANY" OR "TNC" HAS THE
24 MEANING SET FORTH IN SECTION 40-10.1-602 (3).

25 (2) (a) A TRANSPORTATION NETWORK COMPANY SHALL DISCLOSE
26 TO A DRIVER AND CONSUMER AT THE TIME OF OFFERING THE CONSUMER A
27 TRANSPORTATION TASK, AND AGAIN TO THE CONSUMER ON THE SCREEN
28 THROUGH WHICH THE CONSUMER IS PROMPTED TO PROVIDE A TIP:

29 (I) AN ESTIMATE OF, OR, IF KNOWN, THE TOTAL AMOUNT OF MONEY
30 THAT THE CONSUMER WILL BE CHARGED BEFORE ANY TIP IS ADDED;

31 (II) AN ESTIMATE OF, OR, IF KNOWN, THE TOTAL AMOUNT OF
32 MONEY THAT THE TNC WILL PAY THE DRIVER BEFORE ANY TIP IS ADDED;
33 AND

34 (III) IF THE CONSUMER HAS ALREADY INDICATED A TIP AMOUNT
35 FOR THE TRANSPORTATION TASK, THE AMOUNT OF THE TIP.

36 (b) AS SOON AS THE INFORMATION RELATED TO A
37 TRANSPORTATION TASK BECOMES AVAILABLE TO A TNC, THE TNC SHALL
38 DISCLOSE TO THE DRIVER AND THE CONSUMER IN A MANNER PROMINENTLY
39 DISPLAYED ON THE SCREEN:

40 (I) THE TOTAL AMOUNT OF MONEY THAT THE CONSUMER WILL BE
41 CHARGED BEFORE ANY TIP IS ADDED;

42 (II) THE AMOUNT OF THE TIP;

43 (III) THE TAKE RATE FOR THE TRANSPORTATION TASK;

1 (IV) THE TAKE AMOUNT FOR THE TRANSPORTATION TASK; AND
2 (V) THE TOTAL AMOUNT OF MONEY THAT THE DRIVER RECEIVED
3 OR WILL RECEIVE, DISAGGREGATED TO SHOW THE AMOUNT OF THE TIP.
4 (c) AFTER THE DRIVER'S COMPLETION OF A TRANSPORTATION
5 TASK, THE TNC SHALL E-MAIL THE DRIVER A DISCLOSURE OF THE
6 INFORMATION REQUIRED IN SUBSECTION (2)(b) OF THIS SECTION.
7 (3) ON OR BEFORE JANUARY 1, 2024, THE DIRECTOR SHALL
8 DETERMINE BY RULE THE FORM FOR THE DISCLOSURES REQUIRED UNDER
9 THIS SECTION.
10 (4) (a) ANY ADDITIONAL AMOUNT THAT A CONSUMER PAYS IN
11 EXCESS OF THE AMOUNT DISCLOSED PURSUANT TO SUBSECTION (2)(b)(I)
12 OF THIS SECTION IS CONSIDERED A TIP AND SHALL NOT BE RETAINED BY
13 THE TRANSPORTATION NETWORK COMPANY.
14 (b) IF THE TNC ELECTS TO SUGGEST TIP AMOUNTS OR
15 PERCENTAGES TO CONSUMERS, THE TNC SHALL SUGGEST TIP AMOUNTS OR
16 PERCENTAGES BASED ON THE TOTAL AMOUNT OF MONEY THAT A
17 CONSUMER WILL BE CHARGED BEFORE ANY TIP IS ADDED.
18 (5) (a) IF A TRANSPORTATION NETWORK COMPANY VIOLATES THIS
19 SECTION, THE TNC MAY BE SUBJECT TO:
20 (I) MONETARY DAMAGES IN THE AMOUNT OF ONE THOUSAND
21 DOLLARS, AS DETERMINED BY A COURT, IN A CIVIL ACTION BROUGHT
22 PURSUANT TO SUBSECTION (5)(d) OF THIS SECTION, ON A PER-CONSUMER
23 OR A PER-DRIVER BASIS, WHICH AMOUNT THE TNC SHALL PAY TO THE
24 CONSUMER OR DRIVER AFFECTED BY THE VIOLATION;
25 (II) A FINE OF ONE HUNDRED DOLLARS PER VIOLATION, AS
26 DETERMINED BY THE DIRECTOR ON A PER-CONSUMER OR A PER-DRIVER
27 BASIS, WHICH AMOUNT THE TNC SHALL PAY TO THE DIVISION; AND
28 (III) INJUNCTIVE RELIEF PURSUANT TO SUBSECTION (5)(d)(II) OF
29 THIS SECTION.
30 (b) THE DIVISION MAY INVESTIGATE ALLEGED VIOLATIONS IN
31 RESPONSE TO COMPLAINTS FILED OR AT THE DIVISION'S DISCRETION.
32 (c) THE DIRECTOR SHALL ESTABLISH PROCEDURES FOR DRIVERS
33 AND CONSUMERS TO SUBMIT COMPLAINTS TO THE DIVISION AND FOR THE
34 DIVISION'S INVESTIGATION, HEARINGS, AND IMPOSITION OF FINES
35 PURSUANT TO THIS SUBSECTION (5).
36 (d) (I) A PERSON AGGRIEVED BY A TNC'S VIOLATION OF THIS
37 SECTION MAY FILE A CIVIL ACTION AGAINST THE TNC IN THE DISTRICT
38 COURT WHERE:
39 (A) THE PERSON RESIDES;
40 (B) THE VIOLATION OCCURRED; OR
41 (C) THE TNC HAS A PHYSICAL PLACE OF BUSINESS IN THE STATE.
42 (II) (A) THE PERSON FILING THE CIVIL ACTION MAY SEEK
43 INJUNCTIVE RELIEF FROM THE COURT TO COMPEL THE TNC TO COMPLY

1 WITH THIS SECTION OR MAY SEEK MONETARY DAMAGES AS SPECIFIED IN
2 SUBSECTION (5)(a)(I) OF THIS SECTION AND ANY ACTUAL DAMAGES
3 SUSTAINED.

4 (B) IF A PERSON PREVAILS ON ANY CLAIM RAISED IN A CIVIL
5 ACTION BROUGHT AGAINST A TNC OR UNDER THIS SUBSECTION (5)(d), THE
6 PERSON IS ENTITLED TO RECOVER COSTS AND REASONABLE ATTORNEY
7 FEES.

8 (6) NOTHING IN THIS SECTION NEGATES, LIMITS, ALTERS, OR
9 DISPLACES THE PUBLIC UTILITIES COMMISSION'S AUTHORITY TO REGULATE
10 TRANSPORTATION NETWORK COMPANIES PURSUANT TO PART 6 OF ARTICLE
11 10.1 OF TITLE 40 OR PREVENTS A DRIVER OR CONSUMER FROM SEEKING
12 ENFORCEMENT BY THE PUBLIC UTILITIES COMMISSION AGAINST, OR
13 REMEDIES IN RELATION TO, ANY VIOLATIONS OF PART 6 OF ARTICLE 10.1
14 OF TITLE 40.

15 (7) (a) (I) THE DIRECTOR SHALL ADOPT ALL RULES REQUIRED
16 PURSUANT TO THIS SECTION ON OR BEFORE JANUARY 1, 2024.

17 (II) THIS SUBSECTION (7)(a) IS REPEALED, EFFECTIVE SEPTEMBER
18 1, 2024.

19 (b) THE DIRECTOR MAY ADOPT ADDITIONAL RULES AS NECESSARY
20 TO IMPLEMENT THIS SECTION.

21 (8) (a) SUBSECTIONS (2) AND (4) OF THIS SECTION TAKE EFFECT ON
22 APRIL 1, 2024.

23 (b) THIS SUBSECTION (8) IS REPEALED, EFFECTIVE JULY 1, 2024.

24 **8-4-127. Transparency for delivery network companies -**
25 **disclosures - enforcement - definitions - rules - repeal.**

26 (1) DEFINITIONS IN SECTION 8-4-126 (1) APPLY TO TERMS AS THEY ARE
27 USED IN THIS SECTION.

28 (2) (a) A DELIVERY NETWORK COMPANY SHALL DISCLOSE TO THE
29 DRIVER AND THE CONSUMER AT THE TIME OF OFFERING A DELIVERY TASK,
30 AND AGAIN TO THE CONSUMER THROUGH THE SCREEN ON WHICH THE
31 CONSUMER IS PROMPTED TO PROVIDE A TIP:

32 (I) AN ESTIMATE OF, OR, IF KNOWN, THE TOTAL AMOUNT OF MONEY
33 THAT THE CONSUMER PAID OR WILL PAY BEFORE ANY TIP IS ADDED;

34 (II) AN ESTIMATE OF, OR, IF KNOWN, THE TOTAL AMOUNT OF
35 MONEY THAT THE DNC WILL PAY THE DRIVER BEFORE ANY TIP IS ADDED;
36 AND

37 (III) IF THE CONSUMER HAS ALREADY INDICATED A TIP AMOUNT,
38 THE AMOUNT OF THE TIP.

39 (b) AS SOON AS THE INFORMATION RELATED TO A DELIVERY TASK
40 BECOMES AVAILABLE TO A DNC, THE DNC SHALL DISCLOSE TO THE
41 DRIVER AND THE CONSUMER IN A MANNER PROMINENTLY DISPLAYED ON
42 THE SCREEN:

43 (I) THE TOTAL AMOUNT OF MONEY THAT THE CONSUMER WILL BE

1 CHARGED BEFORE ANY TIP IS ADDED;
2 (II) THE AMOUNT OF THE TIP; AND
3 (III) THE TOTAL AMOUNT OF MONEY THAT THE DRIVER RECEIVED
4 OR WILL RECEIVE, DISAGGREGATED TO SHOW THE AMOUNT PROVIDED AS
5 A TIP.
6 (c) AFTER THE DRIVER'S COMPLETION OF A DELIVERY TASK, THE
7 DNC SHALL E-MAIL THE DRIVER A DISCLOSURE OF THE INFORMATION
8 REQUIRED IN SUBSECTION (2)(b) OF THIS SECTION.
9 (3) ON OR BEFORE JANUARY 1, 2024, THE DIRECTOR SHALL
10 DETERMINE BY RULE THE FORM OF THE DISCLOSURES REQUIRED UNDER
11 THIS SECTION.
12 (4) (a) ANY ADDITIONAL AMOUNT THAT A CONSUMER PAYS IN
13 EXCESS OF THE AMOUNT DISCLOSED PURSUANT TO SUBSECTION (2)(b)(I)
14 OF THIS SECTION IS CONSIDERED A TIP AND SHALL NOT BE RETAINED BY
15 THE DELIVERY NETWORK COMPANY.
16 (b) IF THE DNC ELECTS TO SUGGEST TIP AMOUNTS OR
17 PERCENTAGES TO CONSUMERS, THE DNC SHALL SUGGEST TIP AMOUNTS OR
18 PERCENTAGES BASED ON THE TOTAL AMOUNT OF MONEY THAT A
19 CONSUMER WILL BE CHARGED BEFORE ANY TIP IS ADDED.
20 (5) (a) IF A DELIVERY NETWORK COMPANY VIOLATES THIS
21 SECTION, THE DNC MAY BE SUBJECT TO:
22 (I) MONETARY DAMAGES IN THE AMOUNT OF ONE THOUSAND
23 DOLLARS, AS DETERMINED BY A COURT, IN A CIVIL ACTION BROUGHT
24 PURSUANT TO SUBSECTION (5)(d) OF THIS SECTION, ON A PER-CONSUMER
25 OR A PER-DRIVER BASIS, WHICH AMOUNT THE DNC SHALL PAY TO THE
26 CONSUMER OR DRIVER AFFECTED BY THE VIOLATION;
27 (II) A FINE OF ONE HUNDRED DOLLARS PER VIOLATION, AS
28 DETERMINED BY THE DIRECTOR ON A PER-CONSUMER OR A PER-DRIVER
29 BASIS, WHICH AMOUNT THE DNC SHALL PAY TO THE DIVISION; AND
30 (III) INJUNCTIVE RELIEF PURSUANT TO SUBSECTION (5)(d)(II) OF
31 THIS SECTION.
32 (b) THE DIVISION MAY INVESTIGATE ALLEGED VIOLATIONS IN
33 RESPONSE TO COMPLAINTS FILED OR AT THE DIVISION'S DISCRETION.
34 (c) THE DIRECTOR SHALL ESTABLISH PROCEDURES FOR DRIVERS
35 AND CONSUMERS TO SUBMIT COMPLAINTS TO THE DIVISION AND FOR THE
36 DIVISION'S INVESTIGATION, HEARINGS, AND IMPOSITION OF FINES
37 PURSUANT TO THIS SUBSECTION (5).
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39 SECTION MAY FILE A CIVIL ACTION AGAINST THE DNC IN THE DISTRICT
40 COURT WHERE:
41 (A) THE PERSON RESIDES;
42 (B) THE VIOLATION OCCURRED; OR
43 (C) THE DNC HAS A PHYSICAL PLACE OF BUSINESS IN THE STATE.

1 (II) (A) THE PERSON FILING THE CIVIL ACTION MAY SEEK
2 INJUNCTIVE RELIEF FROM THE COURT TO COMPEL THE DNC TO COMPLY
3 WITH THIS SECTION OR MAY SEEK MONETARY DAMAGES AS SPECIFIED IN
4 SUBSECTION (5)(a)(I) OF THIS SECTION AND ANY ACTUAL DAMAGES
5 SUSTAINED.

6 (B) IF A PERSON PREVAILS ON ANY CLAIM RAISED IN A CIVIL
7 ACTION BROUGHT AGAINST A DNC OR UNDER THIS SUBSECTION (5)(d),
8 THE PERSON IS ENTITLED TO RECOVER COSTS AND REASONABLE ATTORNEY
9 FEES.

10 (6) (a) (I) THE DIRECTOR SHALL ADOPT ALL RULES REQUIRED
11 PURSUANT TO THIS SECTION ON OR BEFORE JANUARY 1, 2024.

12 (II) THIS SUBSECTION (6)(a) IS REPEALED, EFFECTIVE SEPTEMBER
13 1, 2024.

14 (b) THE DIRECTOR MAY ADOPT ADDITIONAL RULES AS NECESSARY
15 TO IMPLEMENT THIS SECTION.

16 (7) (a) SUBSECTIONS (2) AND (4) OF THIS SECTION TAKE EFFECT ON
17 APRIL 1, 2024.

18 (b) THIS SUBSECTION (7) IS REPEALED, EFFECTIVE JULY 1, 2024.

19 **SECTION 2. Appropriation.** (1) For the 2023-24 state fiscal
20 year, \$309,137 is appropriated to the department of labor and
21 employment. This appropriation is from the general fund. To implement
22 this act, the department may use this appropriation as follows:

23 (a) \$252,037 for use by the division of labor standards and
24 statistics for program costs related to labor standards, which amount is
25 based on an assumption that the division will require an additional 2.2
26 FTE; and

27 (b) \$57,100 for the purchase of legal services.

28 (2) For the 2023-24 state fiscal year, \$57,100 is appropriated to
29 the department of law. This appropriation is from reappropriated funds
30 received from the department of labor and employment under subsection
31 (1)(b) of this section and is based on an assumption that the department
32 of law will require an additional 0.3 FTE. To implement this act, the
33 department of law may use this appropriation to provide legal services for
34 the department of labor and employment.

35 **SECTION 3. Safety clause.** The general assembly hereby finds,
36 determines, and declares that this act is necessary for the immediate
37 preservation of the public peace, health, or safety."

38 Page 1, line 102, strike "PLATFORM." and substitute "PLATFORM, AND,
39 IN CONNECTION THEREWITH, MAKING AN APPROPRIATION."

** **