HOUSE . . . . No. 4260

The Commonwealth of Massachusetts

INITIATIVE PETITION OF CHARLES DEWEY ELLISON, III AND OTHERS.

OFFICE OF THE SECRETARY.

BOSTON, JANUARY 16, 2024.

Steven T. James
Clerk of the House of Representatives
State House
Boston, Massachusetts 02133

Sir: — I herewith transmit to you, in accordance with the requirements of Article XLVIII of the Amendments to the Constitution an initiative petition for "A Law Establishing that App-Based Drivers are not Employees, and Network Companies are not Employers, for Certain Purposes of the General Laws," signed by ten qualified voters and filed with this department on or before December 6, 2023, together with additional signatures of qualified voters in the number of 90,112, being a sufficient number to comply with the Provisions of said Article.

Sincerely,

WILLIAM FRANCIS GALVIN
Secretary of the Commonwealth.

AN INITIATIVE PETITION.

Pursuant to Article XLVIII of the Amendments to the Constitution of the Commonwealth, as amended, the undersigned qualified voters of the Commonwealth, ten in number at least, hereby petition for the enactment into law of the following measure:

HOUSE . . . . No. 4260

The Commonwealth of Massachusetts

_____

In the One Hundred and Ninety-Third General Court
(2023-2024)

_____

An Act Establishing that App-Based Drivers Are Not Employees, and Network Companies Are Not Employers, for Certain Purposes of the General Laws

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

1   SECTION 1. The purpose of this Act is to clarify that app-based drivers are not employees, and

3   network companies are not employers, for certain purposes of the General Laws, guaranteeing

5   app-based drivers the freedom and flexibility to choose when, where, how, and for whom they

7   work.

9   SECTION 2. Section 148B of chapter 149 of the General Laws is hereby amended by inserting

11   after subsection (e) the following subsection:

13   (f) Notwithstanding subsection (a), for the purpose of this chapter and chapter 151, an app-based

15   driver, as defined in chapter 159AA, shall not be an employee under those chapters.

17   SECTION 3. Section 6 of chapter 151A of the General Laws is hereby amended by inserting

19   after subsection (x) the following subsection:

21   (y) Service performed by an app-based driver, as defined in chapter 159AA.

23   SECTION 4. Subsection (4) of section 1 of chapter 152 of the General Laws is hereby amended

25   by striking out the words "and (g)" and inserting in place thereof the following words:- (g) a

27   person who is an app-based driver, as defined in chapter 159AA, and (h)

29   SECTION 5. The General Laws are hereby amended by inserting after chapter 159Al/2 the

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31 following chapter:

32
33 Chapter 159AA

34
35 Section 1. Title. This chapter shall be known as the "App-Based Drivers Classification Act."

36
37 Section 2. Definitions. For the purposes of this chapter, the following words shall have the

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39 following meanings:

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41 "App-based driver" a person who is a DNC courier, a TNC driver, or both, who has a

42
43 contract with a network company, and for whom the following requirements are met:

44
45 (a) the network company does not unilaterally prescribe specific dates, times of day, or a

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47 minimum number of hours during which the app-based driver must be logged into the network

48
49 company's online-enabled application or platform;

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51 (b) the network company may not terminate the contract of the app-based driver for not

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53 accepting a specific transportation service or delivery service request except where refusal

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55 constitutes a violation of governing federal, state, or local laws or regulations;

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57 (c) the network company does not restrict the app-based driver from performing services

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59 through other network companies except while performing services through the network

60
61 company's online-enabled application or platform; and

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63 (d) the network company does not contractually restrict the app-based driver from working in

64
65 any other lawful occupation or business.

66
67 "Contract", a written agreement, which may be electronic, between an app-based driver and a

68
69 network company.

70
71 "Delivery network company" or "DNC", a business entity that maintains an online-enabled

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73 application or platform used to facilitate delivery services within the Commonwealth.

74
75 "Delivery network company courier" or "DNC courier", a person who provides delivery

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77 services through a DNC's online-enabled application or platform.

78
79 "Delivery services", the fulfillment of a delivery request, meaning the pickup from any

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81 location in the Commonwealth of any item or items and the delivery of the items using a private

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83 passenger motor vehicle, bicycle, electric bicycle, motorized bicycle, scooter, motorized scooter,

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85 walking, public transportation, or other similar means of transportation, to a location selected by

86
87 the customer located within 50 miles of the pickup location. A delivery request may include

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89 more than 1, but not more than 30, distinct orders placed by different customers. Delivery

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91 services may include the selection, collection, or purchase of items by a DNC courier, as well as

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93 other tasks incident to a delivery. Delivery services do not include assistance with residential

94
95 moving services.

96
97 "Network company", a business entity operating as:

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99 (a) a delivery network company;

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101 (b) a transportation network company; or

102
103 (c) both.

104
105 "Person", shall have the same definition as provided in clause twenty-third of section 7 of

106
107 chapter 4 of the Massachusetts General Laws.

108
109 "Private passenger motor vehicle", any passenger vehicle which has a vehicle weight rating

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111 or curb weight of 6,000 lbs. or less as per manufacturer's description of said vehicle or is a sport

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113 utility vehicle, passenger van, or pickup truck.

114
115 "Transportation network company" or "TNC", shall have the same meaning as provided in

116
117 section 1 of chapter 159Al/2 of the Massachusetts General Laws.

118
119 "Transportation network company driver" or "TNC driver", a Transportation network driver,

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121 as defined in section 1 of chapter 159A1/2 of the Massachusetts General Laws, that provides

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123 transportation services, or a person operating a livery vehicle as defined in 540 CMR 2.00 on a

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125 TNC's digital network, as defined in section 1 of chapter 159A1/2.

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127   "Transportation services", the provision of transportation facilitated by the digital network, as

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129 defined in section 1 of chapter 159A1/2 of the Massachusetts General Laws, of a TNC for which

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131 the pickup of the passenger occurs in the Commonwealth.

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133 SECTION 6. This act shall take effect as provided in Article 48 of the Amendments to the

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135 Massachusetts Constitution, as amended.

FIRST TEN SIGNERS

Name	Residence	City or Town
Charles Dewey Ellison, III	195 West Canton Street, # 2	Boston
Abigail Kennedy Horrigan	114 Eastern Avenue	Woburn
Brian Gitschier	58 East Springfield Street, # 2	Boston
Daniel A. Svirsky	248 School Street	Watertown
Sean A. Rogers	9 Atkins Street, # 1	Boston
Caitlin Donovan	16 Fox Run Road	Dover
Brendan M. Joyce	79 Breakneck Road	Sturbridge
Troy B. McHenry	402 Ashmont Street, # 1	Boston
Kimberly Ann Ahern	15 Pond Street	Boston
Christina M. Ellis-Hibbett	563 Ashmont Street	Boston

CERTIFICATE OF THE ATTORNEY GENERAL.

Honorable William Francis Galvin
Secretary of the Commonwealth
One Ashburton Place, Room 1705
Boston, Massachusetts 02108

RE: Initiative Petition No. 23-32: Initiative Petition for A Law Establishing that App-Based Drivers are not Employees, and Network Companies are not Employers, for Certain Purposes of the General Laws – Version I

Dear Secretary Galvin:

In accordance with the provisions of Article 48 of the Amendments to the Massachusetts Constitution, I have reviewed the above-referenced initiative petition, which was submitted to me on or before the first Wednesday of August of this year.

I hereby certify that this measure is in proper form for submission to the people; that the measure is not, either affirmatively or negatively, substantially the same as any measure which has been qualified for submission or submitted to the people at either of the two preceding biennial state elections; and that it contains only subjects that are related or are mutually dependent and which are not excluded from the initiative process pursuant to Article 48, the Initiative, Part 2, Section 2.

In accordance with Article 48, I enclose a fair, concise summary of the measure.

Sincerely,

Andrea Joy Campbell

Enclosure

Summary of 23-32.

This proposed law would specify that rideshare and delivery drivers who accept requests through an online-enabled application are not "employees" for purposes of certain Massachusetts laws regarding workplace conditions, minimum wages, unemployment insurance, and workers' compensation. This proposed law would also specify that rideshare and delivery companies are not "employers" for purposes of those laws.

The proposed law would apply to drivers for rideshare and delivery companies who use digital applications and who are (1) not required to work specific days or hours; (2) not required to accept specific requests; (3) not restricted from working with multiple rideshare or delivery companies; and (4) not restricted from working in any other lawful occupation or business.