

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

February 14, 2023
Date

Committee on Business, Labor, & Technology.

After consideration on the merits, the Committee recommends the following:

SB23-098 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 3, after line 24 insert:

2 "(h) "FACILITY" MEANS ANY THIRD PARTY THAT SELLS GOODS OR
3 SERVICES TO CONSUMERS THROUGH A DELIVERY NETWORK COMPANY."

4 Reletter succeeding paragraphs accordingly.

5 Page 4, strike lines 25 through 27 and substitute:

6 "(III) "TAKE AMOUNT" DOES NOT INCLUDE:

7 (A) ANY AMOUNT OF MONEY FROM A TRANSACTION BETWEEN A
8 DRIVER AND A CONSUMER THAT THE DNC OR TNC PAYS TO THE DRIVER;
9 OR

10 (B) ANY AMOUNT OF MONEY FROM A TRANSACTION BETWEEN A
11 DNC DRIVER AND A CONSUMER THAT A DNC PAYS TO A FACILITY THAT
12 IS RELATED TO THE TRANSACTION."

13 Page 5, line 25, strike "(6)" and substitute "(7)".

14 Page 5, line 27, strike "(7)" and substitute "(8)".

15 Page 6, line 1, strike "(8)" and substitute "(9)".

16 Page 6, strike lines 3 through 27 and substitute:

17 "(3) **Take rate and take amount transparency for a TNC -**
18 **rules.** (a) A TNC SHALL DISCLOSE TO A CONSUMER AT THE TIME OF
19 OFFERING THE CONSUMER TRANSPORTATION AN ESTIMATE OF THE TOTAL

1 FARE AND AN ESTIMATED TAKE AMOUNT FOR THE TRANSPORTATION TASK.
2 THE TNC SHALL MAKE THE DISCLOSURES ON THE SAME SCREEN AND IN A
3 MANNER THAT WOULD LEAD A REASONABLE CONSUMER TO UNDERSTAND
4 APPROXIMATELY HOW MUCH OF THE TOTAL ESTIMATED FARE WILL BE PAID
5 TO THE TNC DRIVER.

6 (b) (I) ON THE SAME SMARTPHONE SCREEN ON WHICH THE TNC
7 PROMPTS A CONSUMER TO LEAVE A TIP FOR A TNC DRIVER, THE TNC
8 SHALL MAKE THE FOLLOWING DISCLOSURES IN A MANNER PROMINENTLY
9 DISPLAYED ON THE SCREEN:

10 (A) THE TAKE RATE;

11 (B) THE TAKE AMOUNT;

12 (C) THE TOTAL AMOUNT OF MONEY THAT THE CUSTOMER PAID OR
13 WILL PAY FOR THE TRANSACTION; AND

14 (D) THE TOTAL AMOUNT OF MONEY THE TNC DRIVER RECEIVED
15 OR WILL RECEIVE FOR THE TRANSACTION.

16 (II) ALL ADDITIONAL AMOUNTS PAID BY THE CONSUMER IN EXCESS
17 OF THE AMOUNTS DISCLOSED IN THE DISCLOSURE REQUIRED UNDER THIS
18 SUBSECTION (3)(b) ARE CONSIDERED A TIP AND SHALL NOT BE RETAINED
19 BY THE TNC.

20 (c) AFTER A TNC DRIVER'S COMPLETION OF A TRANSPORTATION
21 TASK, A TNC SHALL E-MAIL THE TNC DRIVER AND CONSUMER A
22 DISCLOSURE OF THE INFORMATION REQUIRED IN SUBSECTIONS (3)(b)(I)(A)
23 TO (3)(b)(I)(D) OF THIS SECTION. THE TNC SHALL ALSO PROVIDE THE
24 DISCLOSURE TO THE TNC DRIVER ON A FULL SMARTPHONE SCREEN. WITH
25 RESPECT TO THE DISCLOSURE REGARDING THE TOTAL AMOUNT OF MONEY
26 THE TNC DRIVER RECEIVED OR WILL RECEIVE FOR THE TRANSACTION, THE
27 TNC SHALL CLEARLY INDICATE ON THE DISCLOSURE PROVIDED TO THE
28 TNC DRIVER ON A FULL SMARTPHONE SCREEN THE AMOUNT OF THE TIP, IF
29 THE CONSUMER HAS PROVIDED A TIP.

30 (d) THE DIRECTOR SHALL DETERMINE BY RULE THE FORM FOR THE
31 DISCLOSURES REQUIRED UNDER THIS SUBSECTION (3).

32 (4) **Take amount transparency for a DNC - rules.** (a) A DNC
33 SHALL DISCLOSE TO A CONSUMER AT THE TIME OF OFFERING THE
34 CONSUMER A DELIVERY AN ESTIMATE OF THE COST CHARGED TO THE
35 CONSUMER FOR THE DELIVERY TASK, AN ESTIMATED TAKE AMOUNT, AND,
36 IF APPLICABLE, THE AMOUNTS THAT WILL BE PAID TO A FACILITY. THE
37 DNC SHALL MAKE THE DISCLOSURES ON THE SAME SCREEN AND IN A
38 MANNER THAT WOULD LEAD A REASONABLE CONSUMER TO UNDERSTAND
39 APPROXIMATELY HOW MUCH OF THE TOTAL ESTIMATED COST CHARGED TO
40 THE CONSUMER WILL BE PAID TO THE DNC DRIVER.

41 (b) (I) ON THE SAME SMARTPHONE SCREEN ON WHICH THE DNC
42 PROMPTS A CONSUMER TO LEAVE A TIP FOR A DNC DRIVER, THE DNC
43 SHALL MAKE THE FOLLOWING DISCLOSURES IN A MANNER PROMINENTLY

1 DISPLAYED ON THE SCREEN:
2 (A) THE AMOUNT THAT WILL BE PAID TO A FACILITY FOR THE
3 TRANSACTION, IF ANY;
4 (B) THE TAKE AMOUNT;
5 (C) ANY AMOUNTS PAID BY A FACILITY TO THE DNC IN RELATION
6 TO THE TRANSACTION OR, IF THE FACILITY PAYS THE DNC A FLAT FEE
7 THAT IS NOT DIRECTLY TIED TO THE TRANSACTION, THE AMOUNT OF THE
8 FLAT FEE AND AN INDICATION HOW OFTEN THE FLAT FEE IS PAID TO THE
9 DNC;
10 (D) THE TOTAL AMOUNT OF MONEY THAT THE CUSTOMER PAID OR
11 WILL PAY FOR THE TRANSACTION; AND
12 (E) THE TOTAL AMOUNT OF MONEY THE DNC DRIVER RECEIVED
13 OR WILL RECEIVE FOR THE TRANSACTION.
14 (II) ALL ADDITIONAL AMOUNTS PAID BY THE CONSUMER IN EXCESS
15 OF THE AMOUNTS DISCLOSED IN THE DISCLOSURE REQUIRED UNDER THIS
16 SUBSECTION (4)(b) ARE CONSIDERED A TIP AND SHALL NOT BE RETAINED
17 BY THE DNC.
18 (c) AFTER A DNC DRIVER'S COMPLETION OF A DELIVERY TASK, A
19 DNC SHALL E-MAIL THE DNC DRIVER AND CONSUMER A DISCLOSURE OF
20 THE INFORMATION REQUIRED IN SUBSECTIONS (4)(b)(I)(A) TO (4)(b)(I)(E)
21 OF THIS SECTION. THE DNC SHALL ALSO PROVIDE THE DISCLOSURE TO THE
22 DNC DRIVER ON A FULL SMARTPHONE SCREEN. WITH RESPECT TO THE
23 DISCLOSURE REGARDING THE TOTAL AMOUNT OF MONEY THE DNC DRIVER
24 RECEIVED OR WILL RECEIVE FOR THE TRANSACTION, THE DNC SHALL
25 CLEARLY INDICATE ON THE DISCLOSURE PROVIDED TO THE DNC DRIVER
26 ON A FULL SMARTPHONE SCREEN THE AMOUNT OF THE TIP, IF THE
27 CONSUMER HAS PROVIDED A TIP.
28 (d) THE DIRECTOR SHALL DETERMINE BY RULE THE FORM FOR THE
29 DISCLOSURES REQUIRED UNDER THIS SUBSECTION (4)."

30 Renumber succeeding subsections accordingly.

31 Page 7, line 6, after "DESTINATION;" add "AND".

32 Page 7, strike lines 10 through 14 and substitute "ADDED, FOR THE
33 TRANSPORTATION TASK, OR, IF THE CONSUMER HAS ALREADY INDICATED
34 A TIP AMOUNT, THE AMOUNT OF THE TIP."

35 Page 7, line 20, after "CONSUMER;" add "AND".

36 Page 7, strike lines 24 through 27.

37 Page 8, strike line 1 and substitute "ADDED, FOR THE DELIVERY TASK, OR,

1 IF THE CONSUMER HAS ALREADY INDICATED A TIP AMOUNT, THE AMOUNT
2 OF THE TIP."

3 Page 8, line 7, strike "(4)" and substitute "(5)".

4 Page 8, line 9, strike "(4)" and substitute "(5)".

5 Page 8, line 11, strike "(4)(c)" and substitute "(5)(c)".

6 Page 8, line 18, strike "(5)(a)" and substitute "(6)(a)".

7 Page 8, line 21, strike "(5)." and substitute "(6)."

8 Page 9, line 7, strike "(6)(a)" and substitute "(7)(a)".

9 Page 9, line 12, strike "(6)." and substitute "(7)."

10 Page 9, after line 16 insert:

11 "(II) A DNC OR TNC MAY MATERIALLY RESTRICT A DRIVER'S
12 ACCESS TO THE DNC'S OR TNC'S DIGITAL PLATFORM FOR UP TO
13 SEVENTY-TWO HOURS WITHOUT TERMINATING THE DRIVER IF:

14 (A) THE RESTRICTION IS IMPOSED FOR THE PURPOSE OF
15 INVESTIGATING ANY ALLEGATIONS OF SERIOUS MISCONDUCT THAT A
16 CONSUMER HAS MADE ABOUT THE DRIVER;

17 (B) THE DNC OR TNC PROMPTLY NOTIFIES THE DRIVER IN
18 WRITING OF THE GENERAL NATURE OF THE ALLEGATIONS IN A MANNER
19 THAT MAINTAINS AS MUCH PRIVATE INFORMATION REGARDING THE
20 CONSUMER OR CONSUMERS AS POSSIBLE AND OF THE FACT THAT THE DNC
21 OR TNC WILL MATERIALLY RESTRICT THE DRIVER'S ACCESS TO THE
22 DIGITAL PLATFORM FOR UP TO SEVENTY-TWO HOURS PENDING AN
23 INVESTIGATION."

24 Renumber succeeding subparagraph accordingly.

25 Page 9, strike lines 21 and 22 and substitute "TNC SHALL CLEARLY
26 DISCLOSE TO THE DRIVER IN WRITING THE BASIS FOR THE TERMINATION
27 AND INFORMATION REGARDING THE DRIVER'S RIGHT TO CHALLENGE THE
28 TERMINATION BY REQUESTING A HEARING BEFORE THE DEPARTMENT OF
29 LABOR AND EMPLOYMENT WITHIN ONE HUNDREDEIGHTY DAYS AFTER THE
30 DATE OF THE TERMINATION."

31 Page 9, line 25, strike "(7)(b)" and substitute "(8)(b)".

- 1 Page 10, line 5, strike "(7)(e)" and substitute "(8)(e)".
- 2 Page 10, line 11, strike "RATINGS." and substitute "RATINGS; EXCEPT
3 THAT, IF SUCH A COMPLAINT INVOLVES AN ALLEGATION OF ASSAULT OR
4 OTHER EGREGIOUS MISCONDUCT, INCLUDING AN ALLEGATION OF SEXUAL
5 MISCONDUCT, THE HEARING OFFICER OR ADMINISTRATIVE LAW JUDGE
6 PRESIDING OVER THE MATTER SHALL ENSURE THAT THE PRIVACY
7 INTERESTS OF THE COMPLAINING PARTY ARE PROTECTED AND THAT,
8 UNDER NO CIRCUMSTANCES, SHALL THE DEPARTMENT OF LABOR AND
9 EMPLOYMENT OR DRIVER BE ALLOWED TO REQUIRE OR SEEK EVIDENCE
10 FROM THE COMPLAINING PARTY."
- 11 Page 10, line 14, strike "(7)(c)" and substitute "(8)(c)".
- 12 Page 10, line 17, after "(e)" insert "(I)".
- 13 Page 10, line 19, after the period add "A DRIVER IS NOT ELIGIBLE FOR
14 REHIRE UNDER ANY CIRCUMSTANCES IN WHICH A LAW ENFORCEMENT
15 AGENCY REPORTS TO THE DEPARTMENT OF LABOR AND EMPLOYMENT THAT
16 THE DRIVER IS UNDER INVESTIGATION BY THE LAW ENFORCEMENT AGENCY
17 FOR THE CONDUCT THAT GAVE RISE TO THE DRIVER'S TERMINATION.
18 (II) THE DIRECTOR SHALL ADOPT RULES REGARDING THE
19 PROTECTION OF THE INTERESTS OF A CONSUMER THAT HAS MADE A
20 COMPLAINT ABOUT A DRIVER INVOLVING AN ALLEGATION OF ASSAULT OR
21 EGREGIOUS MISCONDUCT, INCLUDING AN ALLEGATION OF SEXUAL
22 MISCONDUCT. THE RULES MUST RECOGNIZE THE STATE'S PROFOUND
23 INTEREST IN PRESERVING THE PRIVACY OF VICTIMS WHILE NOT SUBJECTING
24 VICTIMS TO ADDITIONAL TRAUMA. IN ADOPTING THE RULES, THE DIRECTOR
25 SHALL CONSULT WITH ORGANIZATIONS IN THE STATE THAT REPRESENT THE
26 INTERESTS OF SEXUAL ASSAULT VICTIMS."
- 27 Page 10, line 24, strike "(7)(c)" and substitute "(8)(c)".
- 28 Page 11, line 2, strike "(7)(f)(I)" and substitute "(8)(f)(I)".
- 29 Page 11, line 7, strike "(7)" and substitute "(8)".
- 30 Page 11, line 10, strike "(7)" and substitute "(8)".
- 31 Page 11, line 18, strike "(8)(d)" and substitute "(9)(d)".
- 32 Page 11, line 25, strike "(8)(d)(II)" and substitute "(9)(d)(II)".

- 1 Page 12, line 5, strike "(8)." and substitute "(9)."
- 2 Page 12, line 16, strike "(8)(a)(I)" and substitute "(9)(a)(I)".
- 3 Page 12, line 20, strike "(8)(d)," and substitute "(9)(d),".
- 4 Page 13, line 3, strike "(7)" and substitute "(8)".
- 5 Page 13, line 5, strike "(10)(a)" and substitute "(11)(a)".
- 6 Strike "DNC OR TNC" and substitute "TNC" on: **Page 5**; lines 3, 4, 5, and
- 7 7.

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