

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 2319

(SENATE AUTHORS: FATEH, McEwen, Putnam, Kupec and Mann)

DATE	D-PG	OFFICIAL STATUS
03/01/2023	1198	Introduction and first reading Referred to Labor
03/08/2023	1419a	Comm report: To pass as amended and re-refer to Commerce and Consumer Protection
04/13/2023	4809a	Comm report: To pass as amended and re-refer to Judiciary and Public Safety
	4811	Joint rule 2.03, referred to Rules and Administration
04/18/2023	5224	Comm report: Adopt previous comm report Jt rule 2.03 suspended
05/11/2023		Comm report: Amended, No recommendation Second reading

1.1 A bill for an act

1.2 relating to labor; establishing protections for transportation network company

1.3 drivers; proposing coding for new law as Minnesota Statutes, chapter 181C.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. **[181C.01] DEFINITIONS.**

1.6 (a) For the purposes of this chapter, the following terms have the meanings given.

1.7 (b) "Deactivation" means the suspension or termination of a driver's ability to receive

1.8 connections to potential riders from a transportation network company.

1.9 (c) "Digital network" means any online-enabled application, software, website, or other

1.10 system offered or utilized by a transportation network company that enables the

1.11 prearrangement of rides by transportation network company drivers.

1.12 (d) "Prearranged ride" or "ride" means the provision of transportation by a TNC driver

1.13 to a rider beginning when the driver accepts a request to transport the person through a

1.14 digital network controlled by a transportation network company, continuing while the driver

1.15 transports the rider, and ending when the last requesting rider departs the vehicle.

1.16 (e) "Transportation network company" or "TNC" means a corporation, partnership, sole

1.17 proprietorship, or other entity that provides transportation services in this state and that uses

1.18 a digital network to connect TNC riders to TNC drivers who provide prearranged rides. A

1.19 TNC does not include taxicabs, limousines, for-hire vehicles, a private passenger vehicle

1.20 driven by a volunteer driver, nor an entity that does not transport people.

1.21 (f) "Transportation network driver" or "driver" means an individual who receives

1.22 connections to potential riders from a TNC in exchange for payment.

2.1 Sec. 2. **[181C.02] OBLIGATIONS AND DUTIES; INSURANCE REQUIREMENTS.**

2.2 (a) A TNC must maintain insurance on a driver's behalf that:

2.3 (1) meets the requirements set forth in section 65B.472; and

2.4 (2) covers those injuries to drivers set forth in paragraph (c), who have been drivers for
2.5 at least three months, for injuries that are not already fully covered by auto insurance and
2.6 occur while the driver is engaged in activities in paragraph (b).

2.7 (b) Insurance policies required pursuant to paragraph (a), clause (2), must cover injuries
2.8 that occurred:

2.9 (1) while the driver was logged into the network and was available to receive
2.10 transportation requests; or

2.11 (2) while the driver was engaged in a prearranged ride or activities attendant to or as a
2.12 result of the ride.

2.13 (c) Policies issued pursuant to paragraph (a), clause (2), must cover a driver's injuries
2.14 that presented clear physical manifestations within ten days of the qualifying incident. The
2.15 covered injuries must include any exacerbations or reoccurrence of the original injuries.
2.16 Notwithstanding anything to the contrary in this section, the limits of the policy, per person,
2.17 per qualifying incident, must be at least:

2.18 (1) \$1,000,000 for medical costs and expenses;

2.19 (2) \$500,000 for disability; and

2.20 (3) 75 percent of lost wages, as established by the driver's average wages for the preceding
2.21 three months prior to the qualifying incident.

2.22 (d) A driver is not responsible for any costs of the insurance policy required under
2.23 paragraph (a).

2.24 (e) All insurance policies under this section must name the driver as an insured and must
2.25 be issued by a company or companies licensed by the Department of Commerce.

2.26 (f) A driver may appeal a claim relating to an insurance policy under this section to the
2.27 Office of Administrative Hearings using the contested case procedure under chapter 14.

2.28 Sec. 3. **[181C.03] MINIMUM COMPENSATION.**

2.29 (a) All fees provided in this section must be calculated on a per-trip basis and may not
2.30 be combined.

3.1 (b) Minimum compensation paid by a TNC shall be as follows:

3.2 (1) at least \$1.95 per mile and 59 cents per minute to all drivers for the time transporting
3.3 a passenger, unless surge or other enhanced billing is in effect, in which case the driver
3.4 shall also be paid 85 percent of any additional fee or fare charged to the rider on top of their
3.5 regular mile and minute fees paid on a per-trip basis;

3.6 (2) a \$10 cancellation fee when a cancellation occurs after the driver has already departed
3.7 to pick up the rider;

3.8 (3) \$1.25 per mile and 20 cents per minute if a driver must drive more than five miles
3.9 to pick up a person or for the next pickup while a driver is traveling empty to pick up the
3.10 passenger. Upon pickup, compensation shall revert to the compensation under clause (1);
3.11 and

3.12 (4) a minimum fee of \$6.50 for any transport of a rider to a driver.

3.13 (c) A TNC that uses its software or collection technology to collect fees or fares, whether
3.14 the fees or fares are actually collected, must still pay a driver the fees or fares earned by the
3.15 driver.

3.16 (d) A TNC must provide to the applicable driver all tips that a passenger provides within
3.17 one week following the ride.

3.18 (e) Beginning July 1, 2024, and each July 1 thereafter, the fares and fees provided in
3.19 this section are subject to an automatic annual adjustment equal to the cost-of-living
3.20 percentage published by the United States Department of Labor.

3.21 **Sec. 4. [181C.04] REIMBURSEMENT OF COSTS.**

3.22 (a) A TNC shall pay reimbursement of costs as follows:

3.23 (1) ten cents per mile for fuel or energy costs and all tolls or fees required to make the
3.24 trip when a driver is driving to pick up, transporting, or waiting to pick up riders for all
3.25 assigned trips by the TNC;

3.26 (2) 31 cents per mile for wear and tear on the vehicle used to transport riders for the use
3.27 of the driver's own vehicle. This figure shall be automatically adjusted whenever the Internal
3.28 Revenue Service indicates an adjusted amount per mile for business use of vehicles to half
3.29 that per-mile amount;

3.30 (3) if circumstances require the use of a truck or specialized vehicle, the rate per mile
3.31 shall be 25 percent above the amount for vehicles; and

4.1 (4) the purchase of any vehicle equipment recommended or required by the TNC.

4.2 (b) A TNC may not receive any compensation from a car rental company or other product
4.3 provided to a driver.

4.4 **Sec. 5. [181C.05] DEACTIVATION.**

4.5 (a) A TNC must have clear written rules stating the circumstances under which a driver
4.6 may be deactivated or sanctioned, either permanently or temporarily. These rules and any
4.7 updates must be available both online and in written form to the drivers at least 30 days
4.8 before they are enforceable.

4.9 (b) Deactivation for more than three days may only be as a consequence of a major
4.10 infraction that occurred while driving. The circumstances constituting a major infraction
4.11 must be clearly stated in the rules and are limited to driving while impaired; reckless or
4.12 careless driving; unprovoked assault; theft; sexual, racial, or other illegal harassment initiated
4.13 by a driver; and any felony committed by a driver while driving.

4.14 (c) Infractions that are not a major infraction cannot be combined to cause a deactivation
4.15 of more than three days unless the driver establishes a clear pattern of disregard for the
4.16 interest of passengers or the obligations of the driver after at least three written warnings
4.17 about the behavior.

4.18 (d) A TNC must provide the driver with a written account of the basis for any proposed
4.19 deactivation or other sanction, including the rule or rules the TNC claims have been violated.
4.20 The driver must have the opportunity to present their position and any other relevant
4.21 information or witnesses regarding the alleged infraction prior to deactivation or a sanction
4.22 being imposed. The TNC must consider the information provided by the driver. The burden
4.23 of persuasion for any rule violation is more likely than not and must be based on substantial,
4.24 credible evidence. For a deactivation to occur it must be a reasonable action based on the
4.25 totality of the circumstances. A decertification hearing must occur within ten days of a TNC
4.26 becoming aware of an alleged violation. A traffic ticket or other traffic or criminal charge
4.27 is not conclusive evidence of a violation unless there has been a conviction.

4.28 (e) A hearing must occur prior to any deactivation or other sanction being applied, except
4.29 that a TNC may temporarily deactivate a driver for a major infraction that endangers public
4.30 safety. In such instances, if the violation is not substantiated, the TNC must immediately
4.31 reinstate the driver. If no hearing occurs within the required time period, and no continuance
4.32 is agreed to, the alleged claim of a violation must be dismissed and cannot form the basis
4.33 of any further deactivation or other sanction.

5.1 (f) If the TNC deactivates a driver, gives a suspension of more than ten days, or if multiple
5.2 deactivations exceeding 15 days to a driver occur in a two-year period, the driver may appeal
5.3 to the Office of Administrative Hearings (OAH) using the contested case procedure under
5.4 chapter 14. The OAH may order that the deactivation be stayed until the hearing. This
5.5 provision does not affect layoffs for economic reasons that are not targeted at a particular
5.6 driver or drivers.

5.7 (g) Any driver who has been deactivated by a TNC since January 1, 2019, has the right
5.8 to a hearing, consistent with the procedures provided in this section, to determine if there
5.9 was a valid basis for the deactivation. If a valid basis is not established consistent with this
5.10 section, the driver must be reinstated. A driver who has previously been deactivated may
5.11 reapply for driver status and the application must be reviewed consistent with this chapter.

5.12 (h) By August 1, 2023, a TNC must provide notice of a right to a hearing to all drivers
5.13 deactivated since January 1, 2019, by contacting the drivers through the following means:

5.14 (1) emailing notice to the last known email address;

5.15 (2) texting to the last known cell phone number;

5.16 (3) providing a written notice to the last known home address; and

5.17 (4) calling the last known phone number of the deactivated driver.

5.18 Notified deactivated drivers will have 90 days to request a hearing. If a driver requests a
5.19 hearing, the procedures contained in this section apply to that process.

5.20 **Sec. 6. [181C.06] RETALIATION PROHIBITED.**

5.21 A TNC may not retaliate against or discipline a driver for making a complaint, pursuing
5.22 enforcement of the terms of this chapter, joining with other drivers to discuss or address
5.23 concerns, or otherwise engaging in public discourse or expressing opinions regarding their
5.24 relationship with a TNC.

5.25 **Sec. 7. [181C.07] EQUAL ACCESS TO TRANSPORT.**

5.26 A TNC may not use assignment of rides to favor or disfavor any driver for any reason.
5.27 The assignments must be on a nonpreferential basis. A TNC must not withhold or change
5.28 assignments to a driver because a driver refused potential dispatches. All dispatches must
5.29 be made on a driver-neutral basis. A TNC is prohibited from promising preferential treatment
5.30 in rider assignments if a driver agrees to refrain from joining an organization of drivers or
5.31 for any other reason.

6.1 Sec. 8. **[181C.08] DISCRIMINATION PROHIBITED.**

6.2 A TNC may not discriminate against any of its drivers, applicants to become drivers,
6.3 riders, or potential riders due to race, national origin, color, religion, age, gender, disabilities,
6.4 sexual orientation, or gender identity. Nothing in this language prohibits providing reasonable
6.5 accommodations to people with disabilities, for religious reasons, due to pregnancy, or to
6.6 remedy previous discriminatory behavior.

6.7 Sec. 9. **[181C.09] CIVIL ACTION.**

6.8 (a) A driver or a driver's beneficiaries may bring a civil action for damages for
6.9 noncompliance or a violation of this chapter against a TNC in district court.

6.10 (b) A prevailing plaintiff is entitled to three times the damages suffered. This includes
6.11 but is not limited to damages for failure to provide the required insurance, which shall be
6.12 at least equal to the cost of that insurance, plus any benefits that were not obtained as a
6.13 result of the insurance not being in force; any income lost or expenses not paid; damages
6.14 for emotional distress; and any other harm that resulted directly or indirectly from the failure
6.15 to comply with this chapter. Injunctive relief may also be sought and granted. A prevailing
6.16 plaintiff is entitled to reasonable attorney fees, costs, and expenses.

6.17 (c) A \$1,000 penalty for each violation may be issued to the TNC and made payable to
6.18 the injured party.

6.19 (d) The statute of limitations on any such complaint is three years from the date of
6.20 discovery of the last instance of the violation affecting the complaining party.

6.21 Sec. 10. **[181C.10] REVOCATION OF LICENSE.**

6.22 Failure to comply with the requirements of this chapter subjects a TNC to revocation of
6.23 any license and right to operate issued by a local unit of government. The commissioner of
6.24 labor and industry may initiate a revocation or limitation of license proceeding with a local
6.25 unit of government providing TNC licenses based upon a failure to comply with this chapter.

6.26 Sec. 11. **[181C.11] TRANSPARENCY.**

6.27 (a) When a TNC alerts a driver of a possible assignment to transport a rider, the TNC
6.28 must indicate the number of miles and likely travel time from the driver's current location
6.29 to the pickup. The TNC must separately indicate the length and likely travel time of the
6.30 trip.

7.1 (b) Within 24 hours of each trip completion, the TNC shall transmit an electronic receipt
 7.2 to the driver containing the following information for each unique trip or portion of a unique
 7.3 trip:

7.4 (1) the date, location, total distance traveled, and time spent from acceptance of the
 7.5 assignment to its completion;

7.6 (2) the time taken and total distance traveled from pickup to drop-off of the rider;

7.7 (3) an itemization of the total fare or fee paid by the passenger;

7.8 (4) the total compensation to the driver specifying the rate or rates of pay, the rate per
 7.9 minute, rate per mile, any applicable price multiplier or variable pricing policy in effect,
 7.10 tip compensation, and a specifically itemized list of all costs and reimbursements to, or
 7.11 charged to, the driver; and

7.12 (5) any other information necessary to implement this chapter.

7.13 (c) On a weekly basis, the TNC shall provide a written notice to each driver containing
 7.14 the information required in paragraph (b), in a cumulative format for the week.

7.15 (d) Each driver must be provided with a detailed and itemized explanation communicated
 7.16 either in writing or electronically of how the driver's compensation is calculated. The
 7.17 communication must specify:

7.18 (1) all factors that impact a driver's compensation or reimbursement; and

7.19 (2) on average, the percentage of the total collected fees and costs incurred by the TNC
 7.20 that are allocated to the drivers.

7.21 (e) Any changes in the criteria, formula, or method of calculating the total compensation
 7.22 to drivers must be provided to drivers in writing at least 30 days prior to taking effect.

7.23 **Sec. 12. [181C.12] COLLECTIVE BARGAINING AGREEMENTS; EMPLOYMENT**
 7.24 **STATUS.**

7.25 Nothing in this chapter prohibits collective bargaining or is a basis to conclude whether
 7.26 a driver is an employee or independent contractor.

7.27 **Sec. 13. [181C.13] DRIVER CONTRACT REQUIREMENTS.**

7.28 A copy of this chapter must be attached to every driver contract for drivers in this state.
 7.29 The rights and remedies established in this chapter are not required to be pursued through
 7.30 arbitration and shall be at the election of the driver. Contracts that have already been executed

8.1 must have an addendum provided to each driver that includes a copy of this chapter and
8.2 notice that a driver may elect to pursue the remedies provided in this chapter, rather than
8.3 through arbitration. For cases that go to arbitration, the rights and damages that drivers are
8.4 entitled to in an arbitration proceeding shall be as provided in this chapter.

8.5 Sec. 14. **[181C.14] RELATIONSHIP OF THE PARTIES.**

8.6 Notwithstanding any other provision in law regarding independent contractors or
8.7 employee status, nothing in this chapter affects whether a TNC is an employer of a driver,
8.8 nor whether a TNC driver is an employee of the TNC.