SENATE, No. 4709

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED OCTOBER 1, 2026

Sponsored by:
Senator GORDON M. JOHNSON
District 37 (Bergen)

SYNOPSIS

Provides drivers in transportation network industry right to collectively bargain on labor terms and conditions; establishes oversight authority in Division of Private Employment Dispute Settlement.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning the right of transportation network drivers to collectively bargain with companies in the rideshare industry and supplementing P.L.2017, c.26 (C.39:5H-1 et seq.) and P.L.2025, c.244 (C.34:13A-5.1a et al.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The Legislature finds and declares that:

a. The State of New Jersey observes that significant changes to the transportation sector have resulted in persons seeking passenger transportation services through online companies which provide drivers for those services. The ability to earn meaningful wages, obtain adequate health coverage, have some level of job security, and have access to other traditional benefits of employment is often lacking for these transportation network drivers.

b. Providing transportation network drivers the opportunity to self-organize and designate representatives of their own choosing, and to collectively bargain to obtain sustainable wages, benefits, and working conditions and engage in other concerted activities, as well as preventing and expeditiously resolving disputes between transportation network companies and drivers, subject to the State's ongoing oversight, are all in the best interests of the State. This act shall be deemed an exercise of the police power of the State, and shall be liberally construed for the accomplishment of its purposes.

c. It is the public policy of the State to displace competition with regulation of the terms and conditions of work for transportation network drivers set forth herein; and, consistent with this policy, to exempt from federal and State antitrust laws any conduct authorized under this act. This shall include the formation of transportation network driver organizations and multi-company associations for the purposes of collective bargaining between transportation network companies and transportation network drivers on an industry-wide basis, and the supervision, evaluation, and if approved, implementation of the resulting negotiated recommendations concerning the terms and conditions of work for all transportation network drivers in an industry, when the Director of the Division of Private Employment Dispute Settlement finds those recommendations advance the stated purposes of this act.

d. The intent and policy of the State in authorizing and regulating transportation network companies, transportation network drivers engaging in labor activity, and transportation network driver organizations, is to apply state action immunity to this act, including the recommendations approved by the Division of Private Employment Dispute Settlement, and that these companies, drivers, and transportation network driver organizations be immune from the federal and State antitrust laws to the fullest extent possible in their conduct pursuant to this act.

e. Labor activity conducted by transportation network companies, transportation network drivers, and transportation network driver organizations pursuant to this act shall be monitored by the State to ensure that the conduct protects the rights of workers and companies, encourages collective negotiation and labor peace, and otherwise advances the purposes of this act.

2. As used in this act:

"Active transportation network driver" or "active driver" means a transportation network driver designated as active pursuant subsection b. of section 9 of this act.

"Company union" means any committee, driver representation plan, or association of workers or others that exists for the purpose, in whole or in part, of dealing with companies concerning grievances or terms and conditions of work for drivers, which:

(1) a company has initiated or created or whose initiation or creation it has suggested, participated in or in the formulation of whose governing rules or policies or the conducting of whose management, operations or elections the company participates in or supervises; or

(2) the company maintains, finances, controls, dominates, or assists in maintaining or financing unless required to do so by this act or any regulations implementing this act pertaining to the collective bargaining of drivers, whether by compensating a person for services performed in its behalf or by donating free services, equipment, materials, office or meeting space or anything else of value, or by any other means.

A driver organization shall not be deemed a company union on the basis that it has negotiated with a company, before or after certification as the exclusive bargaining representative, for the right and requisite resources to communicate or meet with drivers for any purpose permitted under this act, including via the company's platform; or it has negotiated with a company for the right to designate drivers to be released with pay for the purpose of providing representational services permitted by this act on behalf of drivers represented by the driver organization.

"Director" means the Director of the Division of Private Employment Dispute Settlement.

"Division" means the Division of Private Employment Dispute Settlement.

"Exclusive bargaining representative" means a driver organization certified by the division, in accordance with this act, as the representative of drivers in a bargaining unit.

"Mandatory subjects of bargaining" shall mean those subjects of bargaining related to compensation, benefits, and other terms and conditions of work, including deactivations, and the number of drivers granted access to the company's digital network.

"Transportation network company" or "company" means a transportation network company as defined in section 2 of P.L.2017, c.26 (C.39:5H-2) and subject to the provisions of section 4 of P.L.2017, c.26 (C.39:5H-4), except that an entity shall not be considered a transportation network company if it facilitates primarily non-transportation network services within the State. For purposes of this act, all applications or platforms used by corporate entities under common control shall be considered a single application or platform.

"Transportation network driver" or "driver" means a transportation network company driver as that term is defined in section 2 of P.L.2017, c.26 (C.39:5H-2). Driver shall not include any individual who, with respect to the provision of transportation network services, is determined by a final order of a court of competent jurisdiction to be an employee within the meaning of paragraph (3) of section 2 of the federal "National Labor Relations Act," (29 U.S.C. s.152).

"Transportation network driver organization" or "driver organization" means any organization in which network drivers participate, and which exists and is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with network companies concerning grievances, terms or conditions of work, or of other mutual aid or protection and which is not a company union as defined herein.

"Unfair work practice" means a work practice identified in section 4 of this act.

3. Drivers shall have the right of self-organization, to form, join, or assist driver organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection free from interference, restraint, or coercion by companies, and shall also have the right to refrain from any of these activities. Nothing contained in this act shall be interpreted to prohibit drivers from exercising the right to confer with companies at any time, provided that during that conference there is no attempt by a company, directly or indirectly, to interfere with, restrain or coerce workers in the exercise of the rights guaranteed by this act.

4. a. It shall be an unfair work practice for a company to:

(1) fail or refuse to provide the division or a driver organization information required by this act;

(2) fail or refuse to negotiate in good faith with a certified or recognized driver organization representing drivers engaged with the company concerning mandatory subject of bargaining;

(3) fail or refuse to provide a certified or recognized driver organization with information requested by the driver organization

that is relevant to and necessary for purposes of bargaining and the performance of its other duties required by this act;

(4) fail or refuse to continue all the terms of a determination of terms and conditions of work prescribed by the division pursuant to this act until a new determination is prescribed;

(5) refuse to permit a driver normal access to the company's means of connecting drivers to individuals seeking transportation service as a result of a dispute with workers or a driver organization representing workers that affects mandatory subjects of bargaining, provided, however, that a company may terminate a worker for good cause that does not involve a worker exercising any rights guaranteed by this act;

(6) spy upon or keep under surveillance, whether directly or through agents or any other person, any activities of drivers, those workers' representatives, or any other person, or any activities of workers or those workers' representatives in the exercise of the rights guaranteed by this act;

(7) dominate or interfere with the formation, existence, or administration of any driver organization, or to contribute financial or other support to any driver organization, directly or indirectly, unless required to by this act or by any regulations implementing this act, including but not limited to the following:

(a) by participating or assisting in, supervising, or controlling:

(i) the initiation or creation of any driver organization; or

(ii) the meetings, management, operation, elections, formulation or amendment of constitution, rules or policies, of any driver organization;

(b) by offering incentives to drivers to join a driver organization; or

(c) by donating free services, equipment, materials, office or meeting space or anything else of value for the use of any driver organization; provided that a driver organization may:

(i) negotiate with a company, before or after certification as the exclusive bargaining representative, for the right and requisite resources to communicate or meet with drivers for any purpose permitted under this act, including via the company's platform; and

(ii) negotiate with a company for the right to designate drivers to be released with pay for the purpose of providing representational services permitted by this act on behalf of drivers represented by the driver organization;

(8) require a driver to join any company union or driver organization or to require a driver to refrain from forming, or joining or assisting a driver organization of the driver's own choosing;

(9) encourage membership in any company union or discourage membership in any driver organization, by discrimination in regard to any term or condition of work;

(10) deactivate or otherwise discriminate against a driver because the driver has signed or filed any affidavit, petition or complaint or given any information or testimony under this act; or

(11) engage in acts, other than those already enumerated in this section, which interfere with, restrain or coerce drivers in the exercise of the rights guaranteed by this act.

b. It shall be an unfair work practice for a driver organization to:

(1) fail or refuse to negotiate in good faith with a company, provided it is the certified or recognized representative of the company's drivers, including refusing to provide information requested by a driver organization that is relevant and necessary for purposes of bargaining and the performance of its other duties required by this act;

(2) restrain or coerce drivers in the exercise of the rights guaranteed by this act provided that this paragraph shall not impair the right of a driver organization to prescribe its own rules with respect to the acquisition or retention of membership in the organization;

(3) fail or refuse to fulfill its duty of fair representation toward drivers where it is the exclusive bargaining representative by acts or omissions that are arbitrary, discriminatory, or in bad faith provided that nothing in this act shall prohibit a driver organization from providing legal, economic or job-related services or benefits beyond those established by a final determination set forth in subsection f. of section 7 of this act to its members only;

(4) restrain or coerce a company in the selection of its representatives for the purpose of bargaining or the adjustment of grievances; or

(5) cause or attempt to cause an employer to discriminate against an employee in violation of paragraph (9) of subsection a. of this section.

c. (1) The division is empowered and directed, as hereinafter provided, to prevent any company and any driver organization, from engaging in any unfair work practice described in this act. This power shall not be affected or impaired by any means of adjustment, mediation or conciliation in labor disputes that have been or may hereafter be established by law or by the determination provided for in subsection f. of section 7 of this act. To prevent unfair work practices, each company shall, at least annually, send a text message and an email to each of its active drivers in a form determined by the division notifying the drivers of their rights under this act, and the procedure for filing an unfair work practice charge. The division shall post a copy of this notice on its website.

(2) Unfair work practice charges shall be filed no later than six months after the date on which the charging party knew or should have known of the violation.

(3) Whenever it is charged that any company or driver organization has engaged in or is engaging in any unfair work

practice, the division shall have power to issue and cause to be served upon the company or driver organization, a complaint stating the charges in that respect, and containing a notice of hearing before the division not less than five days after service of said complaint. Any complaint may be amended by the division in its discretion at any time prior to the issuance of an order based thereon. The company or driver organization so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony. In the discretion of the division, any other person may be allowed to intervene in the proceeding and present testimony.

(4) If the division determines that an unfair work practice has been committed by a company or driver organization named in the complaint, the division shall issue and cause to be served upon the person committing the unfair work practice an order requiring the person to cease and desist from any unfair work practice, and to take any further affirmative action as will effectuate the provisions of this act including, but not limited to:

(a) withdrawal of recognition from and refraining from bargaining collectively with any organization or association, agency or plan that is either defined in this act as a company union, or established, maintained or assisted by any action defined in this act as an unfair work practice;

(b) awarding back compensation, without any reduction based on the driver's interim earnings or failure to earn interim earnings, and an additional amount as liquidated damages equal to two times the amount of damages awarded;

(c) requiring reengagement or reestablishment of the company's preexisting relationship with improperly, adversely affected drivers, with or without compensation, or maintenance of a preferential list from which drivers shall be re-engaged or the relationship reestablished, and the order may further require the respondent to make reports from time to time showing the extent to which the order has been complied with;

(d) requiring the company to provide information required by this act;

(e) requiring the company to recognize and bargain with a driver organization if the division determines that the unfair work practice interfered with the driver's right to form or join a driver organization; and

(f) requiring the respondent to comply with any other obligation of this act.

(5) If the division determines that an unfair work practice has not been committed, the division shall state its findings of fact and issue an order dismissing the complaint. An order issued pursuant to this section shall become final and binding unless, within 10 days after notice thereof, any party requests review by the director. A review may be made upon a written statement of the case by director, or upon

written statements furnished by the parties, or, if any party or the division requests, upon a transcript of the testimony taken at the hearing, if any, together with any other testimony as the division may require.

(6) If, upon the record before it, the division determines that an unfair work practice has been committed it shall state its findings of fact and issue and cause to be served on the company or driver organization an order requiring the company or driver organization to cease and desist from the unfair work practice, and to take any further affirmative action as shall effectuate the provisions of this act.

d. If a company willfully fails to submit the list required by this section, the division shall promptly issue a complaint charging the company with an unfair work practice and petition a court of competent jurisdiction for temporary relief to compel production of the list. In addition to any other remedy authorized by this section, a company found to have committed an unfair work practice by failing to submit the list required by this section shall be subject to a civil penalty, payable to the division, not to exceed $10,000 per day for each day after the deadline that the list was not provided, and any attorneys' fees and other costs incurred by the division. The amount of the penalty shall be determined by the division through application of the following criteria:

(1) the size of the company;

(2) the severity of the violation; and

(3) any prior history of violations by the company

e. Until the record in a case is filed in a court, as hereinafter provided, the division may at any time, upon reasonable notice and in the manner as it deems proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

f. The division may institute appropriate proceedings in the appeals court for enforcement of its final orders.

g. Any party aggrieved by a final order of the division may institute proceedings for judicial review in the Appellate Division of the Superior Court.

h. (1) A party filing an unfair work practice charge under this section may petition the division to obtain injunctive relief, pending a decision on the merits of the charge by the division, upon a showing that:

(a) it is likely to succeed on the merits;

(b) it is likely to suffer irreparable harm in the absence of preliminary relief;

(c) the balance of equities tips in favor of the party; and

(d) an injunction is in the public interest. Immediate and irreparable harm may include the chilling of workers in the exercise of rights provided by this act.

(2) Within 10 days of the receipt by the division of a petition, if the division determines that a charging party has made a sufficient showing under paragraph (1) of this subsection, the division shall

petition the Superior Court in any county where the unfair work practice occurred upon notice to all parties for the necessary injunctive relief or, if the division determines not to seek injunctive relief, the charging party may seek injunctive relief by petition to the Superior Court, in which case the division shall be joined as a necessary party. The division or, where applicable, the charging party, shall not be required to give any undertakings or bond and shall not be liable for any damages or costs that may have been sustained by reason of any injunctive relief ordered. If the division fails to act within 10 days as provided herein, the division, for purposes of review, shall be deemed to have made a final order determining not to seek injunctive relief. In the case of a company's failure to provide an accurate list of names and addresses of drivers, immediate and irreparable injury, loss, or damage shall be presumed.

(3) Injunctive relief may be granted by the court if, after hearing all parties, it determines that there is sufficient showing under paragraph (1) of this subsection. The relief shall expire on decision by the division finding no unfair work practice to have occurred, successful appeal of the grant of injunction relief, or motion by respondent to vacate or modify the injunction pursuant to the provisions of the rules of civil procedure. The division shall conclude the hearing process and issue a decision on the merits within 180 days after the imposition of injunctive relief unless mutually agreed by the respondent and charging party.

(4) A decision on the merits of the unfair work practice charge by the division finding an unfair work practice to have occurred shall continue the injunctive relief until either:

(a) the respondent implements the remedy; or

(b) the respondent successfully moves in court to set aside the division's order.

(5) Any injunctive relief in effect pending a decision by the division shall:

(a) expire upon a decision by the division finding no unfair work practice to have occurred, of which the division shall notify the court within two business days; or

(b) remain in effect only to the extent it implements any remedial order issued by the division in its decision, of which the division shall notify the court within two business days.

(6) The appeal of any order granting, denying, modifying, or vacating injunctive relief ordered by the court pursuant to this subsection shall be made in accordance with the rules of appellate procedure.

5. a. For purposes of this act, each driver shall be included in an industry-wide bargaining unit of all drivers in the State.

b. (1) A driver organization may demonstrate that it has been designated as a bargaining representative by presenting to the division evidence sufficient to show the driver has authorized the

driver organization to act as the driver's exclusive bargaining representative. The division shall deem valid any evidence that includes the signature of the driver, the date of execution, a statement indicating that the driver has authorized the driver organization to act as the driver's exclusive bargaining representative, and the name of at least one company for whom the driver performs services, and that was executed within two years of the date the driver organization submits the evidence to the division. A driver may revoke any authorization by presenting to the division a card, petition, or other evidence that includes the signature of the driver, the date of execution, a statement indicating that the driver revokes the driver's authorization of the driver organization to act as the driver's exclusive bargaining representative, and the name of at least one company for whom the driver performs services, and that was executed prior to the driver's submission of evidence to the division for purposes of subsection c. of this section.

(2) A driver may demonstrate that the drivers did not want to be represented by a driver organization by presenting to the division evidence sufficient to show the driver does not authorize any driver organization to act as the driver's exclusive bargaining representative. The division shall deem valid any evidence that includes the signature of the driver, the date of execution, a statement indicating that the driver does not authorize any driver organization to act as the driver's exclusive bargaining representative, and the name of at least one company for whom the driver performs services, and that was executed within two years of the date the driver submits the evidence to the division.

(3) The division may not impose requirements to establish the validity of any card, petition or other evidence beyond those set forth in paragraphs (1) and (2) of this subsection. Errors shall not invalidate any evidence, as long as the intent of the signer whether to authorize the driver organization to act as the driver's exclusive bargaining representative and the date of execution is ascertainable, and the signer's identity can be determined based on a complete analysis of the evidence. Evidence executed before the effective date of this act shall remain valid.

(4) Execution of any card, petition, or other evidence, or revocation of the foregoing, may be electronic. The division shall establish regulations for verification of electronic signatures that are comparable to the standards set forth in Section III of the National Labor Relations Board Office of the General Counsel Memo 15-08.

c. (1) Within 30 days of a driver organization's request and proffer of cards, petitions or other evidence, the division shall make a determination whether the organization has been designated as bargaining representative by at least 10 percent of active drivers in the bargaining unit. Within 30 days of a driver's request and proffer of evidence, the division shall make a determination whether at least 10 percent of active drivers in the bargaining unit do not designate a

driver organization to act as the bargaining representative. For purposes of this paragraph, the operative list of active drivers shall be based on the process to determine whether a person is an "active transportation network driver" pursuant to section 9 of this act, including any subsequently deactivated drivers. In the event the division determines that the driver organization or driver has not met the threshold, the division shall, within seven days of its determination, identify to the driver organization or driver each card, petition or other evidence that was invalidated and the precise reason therefore, and the driver organization or driver shall have 30 days to provide additional evidence in order to meet the threshold and to address any deficiencies in its initial proffer.

(2) Within 10 days of the division's determination that a driver organization has been designated as the bargaining representative of at least 10 percent of active drivers in the bargaining unit, the division shall:

(a) require each company to send a notice, in a form determined by the division, that the driver organization is seeking to represent drivers for the purpose of initiating a bargaining process in order to establish terms and conditions for the industry;

(b) provide the driver organization with a list of names, phone numbers, mailing address, and language in which the driver communicates via the platform, driver's license number, electronic mail address, and the number of rides completed in the prior quarter for all active drivers in the bargaining unit; and

(c) provide the driver organization the number reflecting the median number of rides pursuant to the process to determine whether a person is an "active transportation network driver" pursuant to section 9 of this act. The division shall provide the driver with an updated list each quarter for the next year. For six months from the date of the division's determination that a driver organization has met the 10 percent threshold in a bargaining unit, and the driver organization is the first driver organization to meet that threshold, no other driver organization may be certified as the exclusive bargaining representative of those drivers without an election.

(3) Within 10 days of the division's determination that a driver who does not want to be represented by a driver organization has demonstrated that at least 10 percent of active drivers do not want to be represented by a driver organization, the division shall:

(a) require each company to send a notice, in a form determined by the division, that the driver seeks a determination that no driver organization shall be certified to represent drivers for the purposes of initiating a bargaining process in order to establish terms and conditions for the industry; and

(b) provide the driver with the information set forth in subparagraphs (b) and (c) of paragraph (2) of this subsection, provided the division shall provide a process by which a company can object to the disclosure upon a showing that the acquiring of the

list is for purposes other than purposes permitted by this act. The division shall provide the driver with an updated list each quarter for the next year.

(4) Within 30 days of a driver organization's request and proffer of cards, petitions or other evidence, the division shall make a determination whether the organization has been designated as bargaining representative by at least 30 percent of active drivers in the bargaining unit. Within 30 days of a driver's request and proffer of cards, petitions or other evidence, the division shall make a determination whether at least 30 percent of active drivers in the bargaining unit do not designate a driver organization to act as the bargaining representative. For purposes of this section, the operative list of active drivers shall be based on the process to determine whether a person is an "active transportation network driver" pursuant to section 9 of this act, including any subsequently deactivated driver, except that if a driver organization has received a list pursuant to paragraph (2) of this subsection, the list shall remain the operative list for six months from the date the driver organization receives it from the division. Any valid card, petition or other evidence provided by a driver organization or driver pursuant to paragraph (1) of this subsection shall count toward the 30 percent threshold. In the event the division determines that the driver organization or driver has not met the threshold, the division shall, within seven days of its determination, identify to the driver organization or driver each card, petition of other evidence that was invalidated and the precise reason therefore, and the driver organization or driver shall have an additional 45 days to provide additional cards, petitions or other evidence in order to meet the threshold and to address any deficiencies in its initial proffer. Once the division determines that a driver organization has been designated as the bargaining representative of at least 30 percent of active drivers in the bargaining unit, the division shall certify the driver organization as the exclusive bargaining representative of all drivers in the bargaining unit. A determination that the driver organization has not been designated as the bargaining representative by at least 30 percent of active drivers shall not preclude the driver organization from intervening in an election sought by another driver organization or making a request for a determination pursuant to paragraph (1) of this subsection again no earlier than six months from date the determination.

In the alternative, a driver organization that has been designated as the bargaining representative of at least 10 percent of active drivers in the bargaining unit may petition the division to conduct an election provided that no petition may be filed pending a final determination of a designation pursuant to this paragraph. The election shall be conducted as expeditiously as possible, and if the driver organization receives a majority of valid votes cast it shall be certified as the exclusive bargaining representative. For purposes of this section, the

operative list of active drivers shall be based on the process to determine whether a person is an "active transportation network driver" pursuant to section 9 of this act, including any subsequently deactivated drivers.

(5) (a) If a driver organization seeking certification as the exclusive bargaining representative provides evidence that shows that less than a majority of active drivers have designated the driver organization as their bargaining representative, the division shall wait seven days before certifying the driver organization as exclusive bargaining representative. If, during those seven days, another driver organization provides evidence that at least 20 percent of active drivers in the bargaining unit have designated it as their bargaining representative, or a driver provides evidence that at least 20 percent of active drivers in the bargaining unit do not wish to be represented by any driver organization, then the division shall hold an election among all active drivers in the bargaining unit. The election shall include only those organizations, driver organizations or "no driver organization," that have reached the threshold. The election shall be conducted as expeditiously as possible. A driver organization receiving a majority of the valid votes cast shall be certified as the exclusive bargaining representative of all drivers in the bargaining unit. When two or more driver organizations are on the ballot and none of the choices, the driver organizations or "no driver organization," receives a majority of the valid votes cast, there shall be a run-off election between the two choices receiving the largest and second largest number of votes. A driver organization receiving a majority of the valid votes cast in the run-off shall be certified as the exclusive bargaining representative of all drivers in the bargaining unit, and it shall owe a duty to fairly represent all workers. If a majority of the valid votes cast are for "no driver organization," then the division shall not certify any driver organization as the exclusive bargaining representative. For purposes of this section, the operative list of active drivers shall be based on the process to determine whether a person is an "active transportation network driver" pursuant to section 9 of this act, including any subsequently deactivated drivers.

(b) A driver organization certified as the exclusive bargaining representative shall have the exclusive authority to represent the drivers in the bargaining unit, without challenge by another driver organization, for the greater of:

(i) one year following certification; or

(ii) the length of time that a final determination rendered by the division under subsection f. of section 7 of this act is in effect, provided that the period shall not be longer than three years following the date of issuance of the final determination. During the times when an exclusive bargaining representative is subject to challenge, drivers may file for a decertification election upon a showing that at least 20 percent of the active drivers in the bargaining unit have

demonstrated support for the decertification. The division shall then schedule an election to determine whether the driver organization has retained its status as exclusive bargaining representative. The driver organization shall retain its status as exclusive bargaining representative if it receives a majority of valid votes cast by active drivers in the bargaining unit.

(c) If a driver organization has been designated the exclusive bargaining representative with respect to a bargaining unit, only that driver organization shall be entitled to receive from the companies a list of all of their drivers in the bargaining unit, together with phone numbers, mailing addresses, and electronic mail addresses and bargain with the companies for recommendations to the division concerning mandatory subjects of bargaining of the drivers.

(6) Within 30 days of a request by a driver organization or driver, a determination pursuant to paragraphs (1), (4), or subparagraphs (a), (b), or (c) of paragraph (5) of this subsection, shall be conducted by a neutral body chosen by the division, in accordance with the provisions of this act. The fees of the neutral body shall be paid by the division. The neutral body shall report the results of the determination or election to the division. Contracts for a neutral body under this act shall be considered contracts for services of a professional or technical nature under section 4 of P.L.1954, c.48 (C.52:34-9) and exempt from advertising requirements in accordance with section 3 of P.L.1954, c.48 (C.52:34-8).

(7) A driver organization that has been designated as the exclusive bargaining representative with respect to the bargaining unit shall have a right to voluntary deduction of membership dues, initiation fees, assessments and other payments to the driver organization upon presentation of deduction authorization cards signed by individual drivers, which may be in electronic form. A company shall commence making the deductions as soon as practicable, but in no case later than 30 days after receiving proof of a signed deduction authorization card, and the payments shall be submitted to the driver organization within 30 days of the deduction. The right to the membership deduction shall remain in full force and effect until an individual revokes the deduction authorization in writing in accordance with the terms of the signed authorization.

6. a. There is established in the General Fund the Rideshare Workers Support Fund as a nonlapsing revolving fund in the Department of the Treasury. Monies deposited in the fund shall be utilized by the division to effectuate the purposes of this act.

b. Beginning on the date that a driver organization is certified as the exclusive bargaining representative, each company shall impose a fee of 15 cents per trip, which the division shall collect to be deposited into the Rideshare Workers Support Fund. The division shall use the fees to:

(1) administer its duties and operations pursuant to this act;

(2) issue grants to the exclusive bargaining representative to educate drivers regarding their rights and enforcement of those rights and to enforce the terms of an agreement or determination approved by the division under this act; and

(3) for other educational and enforcement purposes in accordance with this act.

c. In accordance with subsection b. of this section, the fee shall initially be 15 cents per ride on each trip originating in the State performed by a driver. Beginning one year following the effective date of this act, the fee shall be adjusted annually to the nearest penny to reflect any increase in inflation as measured by the Consumer Price Index for All Urban Consumers (CPI-U) published by the United States Bureau of Labor Statistics. The division shall calculate and publish the adjustments required by this subsection.

d. The fee shall be displayed to customers as an "Administrative Fee."

e. The division shall have the power to issue subpoenas and to conduct audits of companies to ensure compliance with the collection and transmission of fees required by this section.

f. The division shall by regulation adopt driver organization grant application standards and criteria for evaluating the grant applications, including criteria to ensure that the driver organization has the capacity and expertise to fulfill the functions required by this section. If the driver organization meets the criteria established by the division, the division shall approve the grant application and remit the fees to the driver organization on a monthly basis, with each payment occurring no more than 30 days following the end of the month. The fees shall be used by the driver organization solely to educate drivers regarding this act, to provide assistance in enforcing their rights under this act, for costs associated with bargaining and other activities provided for in section 7 of this act, and to enforce the terms of any agreement or determination approved by the division under this act. The driver organization shall be prohibited from using the fees for political contributions or lobbying. In the event no grant is awarded or if the fees collected exceed the grant awarded, the division shall use the fees for educational activities regarding the provisions of this act.

g. The driver organization receiving a grant in accordance with this section shall submit an annual report to the division in a form to be determined by the division setting forth how the fees have been utilized. The division shall review each annual report and certify whether the driver organization is utilizing the fees for authorized activities and continues to meet the grant application criteria. The division shall by regulation adopt a process by which it may suspend or revoke grants based on the failure to utilize the fees for authorized activities or the failure to meet the grant application criteria. If the division finds that the driver organization does not meet the grant application criteria, the division may utilize the fees for its own

educational and enforcement activities, and the driver organization may reapply for a grant in the following year.

7. a. Once the division determines that a driver organization is the exclusive bargaining representative for the bargaining unit, the division shall notify all companies, and all companies shall be required to bargain with the driver organization concerning mandatory subjects of bargaining, including criteria for driver deactivations and a dispute resolution procedure. To facilitate negotiations, the companies may form an industry association to negotiate on their behalf. If the companies choose not to form an association, any recommended agreement shall be approved by:

(1) at least two industry member companies; and

(2) member companies representing at least 80 percent of the market share of that industry in New Jersey, with votes determined in proportion to the number of rides completed by drivers contracting directly with the company in the two calendar quarters preceding the recognition of the certified representative.

b. Once the driver organization and the companies have reached a set of negotiated recommendations for the industry, the negotiated recommendations shall be submitted by the driver organization to a vote by all drivers in the industry who have completed at least 100 rides in the previous calendar quarter. The driver organization shall determine the method by which the vote is conducted, which may include mail or electronic ballot. Prior to a vote, and within 10 days of a request by the driver organization, each company shall provide the driver organization a list containing the names, phone numbers, mailing address, language the driver communicates in via the platform, driver's license number, electronic mail address, and the number of rides completed in the prior quarter of each driver who has completed at least 100 rides in the previous calendar quarter. If approved by a majority of drivers who vote, the negotiated recommendations shall be submitted to the division for approval. If a majority of valid votes cast by the drivers are not in favor of the negotiated recommendations, the driver organization and the companies shall resume bargaining.

c. Any of the affected companies or the exclusive bargaining representative may request the division to render assistance as provided in this section.

(1) Any party may request mediation to assist with resolving a bargaining dispute. Upon receiving a request, the division shall appoint a mediator from a list of qualified persons maintained by the division; the parties shall be free to select a mediator satisfactory to them or to decline a selection.

(2) If the mediator is unable to achieve agreement between the parties concerning an appropriate resolution within 30 days after the division has provided the parties the list of mediators, and the parties have negotiated for at least 120 days from the date the driver

organization has been designated as the exclusive bargaining representative or from the expiration date of a prior determination by the division as provided for in subsection f. of this section, any party may petition the division to refer the dispute to an arbitrator.

(3) Upon timely petition of either party, the division shall refer the dispute to an arbitrator as hereinafter provided.

(a) Prior to submitting the dispute to an arbitrator, the division shall conduct an election among all drivers in the industry who have completed at least 100 rides in the previous calendar quarter. Prior to a vote, and within 10 days of a request by the driver organization, each company shall provide the driver organization a list containing the names, phone numbers, mailing address, language the driver communicates in via the platform, driver's license number, electronic mail address, and the number of rides completed in the prior quarter of each company who has completed at least 100 rides in the previous calendar quarter. The drivers shall choose between submitting the dispute to the arbitrator or accepting the companies' most recent proposed set of negotiated recommendations submitted to the driver organization prior to the arbitration petition.

(b) If a majority of the votes cast are in favor of arbitration, the exclusive bargaining representative shall notify the division of the need to schedule arbitration. The arbitration shall be conducted by a tripartite panel comprised of one neutral arbitrator, and one representative selected by each of the affected parties to serve as a partisan arbitrator. Each of the two parties shall have an equal say in the selection of the neutral arbitrator. If the parties are unable to agree upon the neutral arbitrator within 10 days after the division notifies the companies of the need to schedule arbitration, the division shall submit to the parties a list of qualified, disinterested persons for the selection of a neutral arbitrator. A representative of each of the two parties shall alternately strike from the list one of the names with the order of striking determined by lot, until the remaining one person shall be designated as the neutral arbitrator. The striking process shall be completed within five days of receipt of the division's list. If a neutral arbitrator is designated by this process, the parties shall notify the division of the designated neutral arbitrator. In the event the parties are unable to select the neutral arbitrator within 10 days following receipt of this list, the division shall appoint the neutral arbitrator. The cost of arbitration shall be paid by the division.

(c) The arbitrators shall hold hearings on all matters related to the dispute. The parties may be heard either in person, by counsel, or by other representatives, as they may respectively designate. The neutral arbitrator, after consulting with the parison arbitrators, shall determine the order of presentation by the parties, and shall have discretion and authority to decide all procedural issues that may be raised.

d. The parties, including all companies engaging at least 50 drivers in the bargaining unit and the exclusive bargaining representative affected, may present, either orally or in writing, or both, statements of fact, supporting witnesses and other evidence, and argument of their respective positions with respect to each case. The neutral arbitrator shall have authority to require the production of additional evidence, either oral or written as the neutral arbitrator may desire from the parties and shall provide at the request of either group of parties that a full and complete record be kept of any hearings, the cost of that record to be borne by the requesting party. If any record is created, it shall be shared with all parties regardless of which party paid for it. Upon conclusion of the hearing and receipt of any post-hearing briefs, the panel shall convene in executive session, consider all evidence, and endeavor in good faith to reach consensus on all matters in dispute.

e. For all matters in dispute on which the panel is unable to reach consensus, the neutral arbitrator shall make a just and reasonable determination, and within 90 days of the arbitrator's appointment, shall issue a determination that shall apply to all companies and the exclusive bargaining representative. In arriving at the determination, the neutral arbitrator shall specify the basis for the findings, taking into consideration, in addition to any factors recommended by the parties that the neutral arbitrator finds to be consistent with this act, including the following:

(1) whether the wages, benefits, hours and other terms and conditions of work of the drivers achieve the policy goals set forth in section 1 of this act. This amount shall take into account the real cost of living, may substantially exceed any statutory minimum wage, and shall be a sufficient amount so that the drivers do not need to rely upon any public benefits;

(2) whether the most efficient way to provide benefits is through a portable benefits fund, and if so, how to best assess each company a portion of the costs of providing those benefits;

(3) the financial ability of the affected companies to pay for the compensation and benefits in question and the impact on the delivery of services provided by the companies;

(4) the establishment of reasonable dispute resolution mechanisms that will allow drivers a reasonable expectation of uninterrupted work and permit companies to alter or terminate relationships with drivers if there is just cause for alteration or termination; and

(5) comparison of peculiarities as compared to other related trades or professions, including specifically: hazards of work; physical demands and qualifications; educational qualifications; mental demands and qualifications; overall compensation; job training, skills, and responsibilities, and reasonable expenses incurred by drivers in providing transportation network services to companies.

f. Any recommendations agreed upon between companies and a driver organization acting as exclusive bargaining representative of drivers in the bargaining unit or any determination reached by arbitration under this act shall be reviewed and approved or disapproved by the division. In deciding whether to grant approval of the agreement or determination, the division's decision shall be based on the factors specified in paragraph (3) of subsection e. of this section, and the policies set forth in section 1 of this act. In deciding whether to approve an agreement or determination, the division shall afford the exclusive bargaining representative, all companies, and drivers no more than 30 days to submit comments and arguments concerning whether approval is warranted. Within 60 days of the deadline for submitting comments, the division shall approve or disapprove the agreement or determination. In the event of disapproval, the division may make recommendations for amendments to the agreement or determination that would cause the division to approve and afford the parties an opportunity to respond to those recommendations. The final determination by the division shall include a date following which new terms may be set for the bargaining unit which date shall not be more than three years following the date of the issuance of the determination. If during the period of time the final determination is in effect, the division determines that market conditions have changed, the division shall give the exclusive bargaining representative, all companies, and drivers the opportunity to submit comments and arguments concerning whether the final determination should be modified, and after receiving those comments, the division may modify the final determination. The exclusive bargaining representative and the companies may mutually agree to recommend changes to the final determination, which shall be submitted to the division for approval or disapproval. Final determinations by the division shall apply to the driver organization, and all drivers and companies and shall be enforceable through provisions of the final determination, and this act. A company or driver who was not covered by this act at the time a final determination by the division was made because the factors set forth in subsection e. of this section were not met shall be covered by the act and be subject to any final determination by the division as soon as those factors are met. Any company that is subject to any final determination by the division shall continue to be so for the duration of a final determination. Any company not covered by this act at the time a final determination by the division was made because the factors set forth in subsection e. of this section of this act were not met may choose to become bound by the final determination by providing written notice to the division, the driver organization, and the covered companies, and thereafter shall be bound for the remainder of the term of the determination.

8. a. No agreement or determination made pursuant to this act shall diminish or erode any minimum labor standard that would otherwise apply to a driver or other worker and shall not be construed as reducing, limiting, or curtailing any rights of any driver or other worker.

b. Final orders of the division made pursuant to this act shall be conclusive against all parties to its proceedings and persons who have had an opportunity to be parties to its proceedings unless reversed or modified in proceedings for enforcement or judicial review as herein provided. Final orders of the division shall be subject to review as provided for under State law.

c. Except in a proceeding brought to challenge a final order of the division, the determination of an arbitrator pursuant to subsections e. and f. of section 7 of this act shall not be subject to judicial review.

d. Arbitration awards issued pursuant to a dispute resolution procedure set forth in a final determination established pursuant subsection f. of section 7 of this act shall be subject to judicial review in accordance with N.J.S.2A:24-1 et seq.

9. a. Within 90 days of the effective date of this act and once each quarter thereafter, the Division of Private Employment Dispute Settlement shall require each transportation network company to provide to the division in an electronic format determined by the division information that identifies all transportation network drivers who have completed five or more trips that originated in the State on the company's platform in the previous six months. Each company shall provide this information within two weeks after the initial demand following the effective date, and thereafter at the end of each calendar quarter. The information shall include the name of the driver, the driver's license number, the driver's mobile phone number, language, mailing address, email address, and the number of trips the driver completed through the company's platform in the previous six months.

b. The division shall combine the data provided by all companies to determine the distribution of the number of trips completed by all drivers for which data has been submitted, and then shall determine the median number of trips across drivers for whom data has been submitted in the previous six months. Any driver who completed more than the median number of trips shall be considered an active transportation network driver in the rideshare industry. These records shall not be considered a government record under section 1 of P.L.1995, c.23 (C.47:1A-1.1).

c. The division shall publish the list of covered and noncovered transportation network companies, as defined in section 2 of this act, and the rideshare volume information of the covered and noncovered companies on its website.

10. In addition to any authority or powers granted under section 5 of P.L.1968, c.303 (C.34:13A-5.1) and sections 3 through 5 of P.L.2025, c.244 (C.34:13A-5.1a through C.34:13A-5.1c), the Division of Private Employment Dispute Settlement shall have authority and oversight over the provisions of this act.

11. The provisions of this act shall be severable, and if any of its provisions are held to be unconstitutional, the decision of the court shall not affect the validity of the remaining provisions of this act.

12. The Director of the Division of Private Employment Dispute Settlement, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to implement the provisions of this act.

13. This act shall take effect immediately.

STATEMENT

This bill would extend organizing and bargaining rights to app-based drivers and would be administered by the Division of Private Employment Dispute Settlement. The bill gives drivers the right to engage in concerted activity, including organizing a union, and makes it an unfair work practice for companies to discriminate against workers on account of union activity, to coerce workers, or to provide assistance to a union, and bars unions from coercion.

The bill allows drivers to organize a union through an election or through card check. The bill requires bargaining to take place on an industry-wide basis, provides for a mechanism for addressing bargaining impasse, and requires review and approval of any recommended set of terms and conditions of work by the division. The bill requires ongoing supervision by the division concerning the approved terms and conditions of work. The bill imposes a duty of fair representation upon unions, and permits drivers to decertify a union.

The bill establishes a Rideshare Workers Support Fund and requires the State to collect from each company a fee of 15 cents per ride to be deposited into the fund. The fund will be used for the division's administration costs, for grants to the certified union for representation and educational activities, and for other enforcement and educational purposes.