

**A Bill Requiring Regulation of Network Workers, and Providing for
Their Protection and Benefits**

Section 1. The labor law is amended by adding a new article 20-D to read as follows:

ARTICLE 20-D

INDUSTRY-WIDE REGULATION OF NETWORK WORKERS

Section 750. Statement of public policy; legislative findings.

Section 751. Definitions.

Section 752. Worker flexibility.

Section 753. Worker rights.

Section 754. Bargaining units.

Section 755. Labor peace agreements.

Section 756. Network Worker Relations Board.

Section 757. Procedure for recognition.

Section 758. Formation of the industry council.

Section 759. Negotiated recommendations.

Section 760. Prevention of unfair labor practices.

Section 761. Judicial review.

Section 762. Compliance with employer obligations.

Section 763. Unlawful discriminatory practices.

Section 764. Authority to regulate.

Section 765. Severability.

Section 750. Statement of public policy; legislative findings. 1. The legislature finds and declares that:

(a) Platforms operated by privately operated network companies and the network workers who work on them are vital parts of the transportation and delivery systems of the state. The well-being of the network workers, and the reliability and stability of the services facilitated by privately operated network companies are matters of statewide importance;

(b) Therefore the state intends to regulate these industries to promote the well-being of network workers and the reliability and stability of the services facilitated by network companies;

(c) Furthermore, because collective negotiations between network companies and their respective network workers, and the resulting collectively negotiated recommendations for regulations concerning the industries is likely to improve the regulations promulgated by the state, the state of New York will establish a process through which network companies and network workers collectively negotiate in an Industry Council to make recommendations that will enable more stable and sustainable working conditions and better ensure that network workers can perform their services in a reliable, stable, cost-effective, and economically viable manner, and thereby promote the welfare of the people who rely on reliable transportation and delivery services to meet their needs;

(d) The State seeks to eliminate the causes of certain substantial limitations to the free flow of commerce and to mitigate and eliminate these limitations when they have occurred by encouraging the practice and procedure of collective negotiation.

2. For the reasons set forth in subdivision 1, it is the public policy of the State to displace competition with regulation of the terms and conditions of work for network workers set forth herein; and, consistent with this policy, to exempt from federal and state antitrust laws, the formation of industry councils and negotiation between network companies and network workers to negotiate with one another on an industry-wide basis, and to supervise, approve, and implement the resulting negotiated recommendations concerning the terms and conditions of work for all network workers in an industry when those recommendations are found by the Board to advance the public purposes stated in this section and are then made binding, regardless of the competitive consequences thereof.

(a) The State intends that network workers have the right to form, join, or assist labor organizations, to be represented through representatives of their own choosing, and to engage in other concerted activities for the purpose of working with an industry council to create negotiated recommendations, which shall form the basis for industry regulations;

(b) The State intends network companies have the right to form multi-company associations to represent them while working with an industry council;

(c) The intent and policy of the State is for the statutory and non-statutory labor exemptions from the federal antitrust laws and analogous state laws like the Donnelly Act, to apply to network workers who choose to form, join or assist labor organizations in qualified labor activity in New York.

(d) The State intends in authorizing and regulating network companies and network workers engaging in qualified labor activity that state action immunity apply to this statute, and that network drivers and network companies be immune from the federal and state antitrust laws to the fullest extent possible in their conduct pursuant to this statute;

(e) The State will actively supervise the qualified labor activity conducted by network companies and network drivers pursuant to this statute to ensure that the conduct permitted by the statute protects the rights of workers, consumers, and companies, encourages collective negotiation and labor peace, and curtails any practices that may negatively impact the general welfare of workers, consumers, businesses, and the State economy and otherwise advances the purposes of this Act.

3. Except for individuals who meet the definition of “network worker” as defined herein, the State does not intend that any individuals classified as employees by any other law, or who satisfy any other legal test for employment, shall have any rights or protections diminished by application of this article.

4. All the provisions of this article shall be liberally construed for the accomplishment of these purposes.

5. This article shall be deemed an exercise of the police power of the state for the protection of the public welfare, prosperity, health and peace of the people of the state.

Section 751. Definitions. When used in this article:

1. “Active network worker” means a network worker so designated pursuant to the following process: Upon request by the Commissioner, each RNC shall provide the Commissioner with information that identifies all RNC drivers who completed five or more rides that originate in the state of New York on the RNC’s platform in the previous twelve months. Such information shall include only the name of the RNC driver, the RNC driver’s Social Security Number, and the number of rides the driver completed through the RNC’s platform in the previous twelve months and how many of those rides originated within the City of New York. The Commissioner shall combine the data provided by all RNCs to determine the distribution of the number of rides completed by all RNC drivers for which data has been submitted, and then shall determine the median number of rides across drivers for whom data has been submitted in the previous twelve months. Any RNC driver who completed at least the median number of rides shall be considered an active network worker in the rideshare industry. The Commissioner shall follow the same process for determining the median number of completed delivery requests, and any DNC courier who completed at least the median number of delivery requests in the previous twelve months shall be considered an active network worker in the delivery industry.

2. “Board” means the Network Worker Relations Board created by Section 756.

3. “Certified representative” means a union certified by the Commissioner as the sole representative of one bargaining unit of network workers in the State of New York. A certified union may transfer the certification to a local or affiliate of that union at its sole discretion and at any time making the local or affiliate the certified representative. Such transfer shall be accompanied by a written notice to the Commissioner and the Network Companies in the industry council in which the certified representative serves,

4. “Commissioner” means the New York State Department of Labor Commissioner.

5. The term “company union” shall mean any committee, worker representation plan or association of Network Workers which exists for the purpose, in whole or in part, of dealing with Network Companies concerning grievances or terms and conditions of work, which a Network Company, on or after the effective date of this act, initiates or creates or whose initiation or creation a Network Company suggests, participates in, or in the formulation of whose governing rules or policies or the conducting of whose management, operations or elections the Network Company participates in or supervises.

6. “Customer” means one or more natural persons or business entities.

7. “Delivery network company” (“DNC”) means a business entity, which includes all related corporate entities under common control that maintains an online-enabled application or platform used to facilitate delivery services within the State of New York.

8. “Delivery network company courier” (“DNC courier”) means an individual who provides delivery services through an online-enabled application or platform for which the pickup up of the delivery item occurs within the State.

9. “Delivery services” means the fulfillment of a delivery request, meaning the pickup from any location of any item or items and the delivery of the items using a passenger vehicle, bicycle, scooter, walking, public transportation, or other similar means of transportation, to a dropoff location located within fifty miles of the pickup location. A delivery request may include more than one, but not more than thirty, distinct orders placed by different customers. Delivery services may include the selection, collection, and/or purchase of items by a DNC courier provided that those tasks are done in connection with a delivery that the DNC courier has agreed to complete, as well as other tasks incidental to a delivery. Delivery services do not include assistance with residential moving services or commercial goods transportation services as defined in subdivision 3 of section 862-A of the labor law.

10. “Earnings” means all earnings, including incentives and bonuses: (a) paid to the network worker by the network company; and (b) remitted to the network worker from payment facilitated by a network company, but not including amounts for service fees charged to the network worker by the network company, tolls, taxes, or other similar charges or fees.

11. “Earnings period” means a pay period, set by the network company, not to exceed 14 consecutive calendar days.

12. “Engaged miles” means all miles traveled during engaged time using a vehicle that is not a commercial motor vehicle as defined in subdivision four-a of section two of the transportation law. Network companies may exclude miles if doing so is reasonably necessary to remedy or prevent fraudulent use of the network company’s online-enabled application or platform.

13. “Engaged time” means the period of time, as recorded in a network company’s online-enabled application or platform, beginning when a network worker accepts a rideshare request or delivery request and is en route to the pickup, and ending when the network worker completes that rideshare request or delivery request. Engaged time shall not include any time spent performing a rideshare service or delivery service after the request has been cancelled by the customer or any time spent on a rideshare service or delivery service where the network worker abandons performance of the service prior to completion. Network companies may also exclude time if doing so is reasonably necessary to remedy or prevent fraudulent use of the network company’s online-enabled application or platform.

14. “Labor peace agreement” means an agreement between a network company and a union as described in Section 755.

15. “Industry” means either the RNC or DNC industry.

16. “Industry member company” means, with respect to either the app-based rideshare or app-based delivery industry, all network companies in the industry who have signed an LPA pursuant to Section 755. A network company may be an industry member company of both the DNC and RNC industries.

17. “Industry regulations” means negotiated recommendations that have been approved by and adopted by the Board pursuant to section 759.

18. “Negotiated recommendations” means the recommendations agreed to by the industry council pursuant to subdivision 1 of section 759 or, in the event that arbitration take place pursuant to subdivision 11 of section 759, the recommendations resulting from the arbitration process.

19. “Network company” means a DNC or RNC, except that a business entity that maintains an online-enabled application or platform (a) used to facilitate primarily non-delivery and non-rideshare services within the State of New York, (b) for which less than seven and one-half percent of service requests fulfilled through the platform on an annual basis are for delivery services or rideshare services, and (c) for which fewer than fifteen thousand service requests fulfilled through the platform in any year are for delivery services or rideshare services, is not a network company. For purposes of this paragraph, all applications or platforms that any related corporate entities under common control maintain shall be considered a single application or platform

20. “Network worker” means an individual (1) who is a DNC courier and/or RNC driver and (2) who provides services through a network company’s online-enabled application or platform. Network worker shall not include any individual who, with respect to the provision of services through a network company’s online-enabled-application or platform, is classified by an employer as a W-2 employee for federal tax law purposes, or for whom a court has determined in a final, unappealable ruling that the worker is an employee under the National Labor Relations Act, as codified at 29 U.S.C. §§ 151–69.

21. “Rideshare network company” or “RNC” means a transportation network company as described by § 1691 of Vehicle & Traffic Law or a high volume for hire service as defined by § 19-502 of the New York City Administrative Code.

22. “Rideshare network company driver” (“RNC driver”) means (1) a transportation network company driver as described by § 1691 of Vehicle & Traffic Law or a for hire vehicle driver who receives connections to potential passengers and related services from a high volume for hire service, as defined by § 19-502 of the New York City Administrative Code who (2) provides services for which the pickup up of the passenger occurs within the State.

23. “Statement of interest” means (a) any statement, in written or electronic form, that the active network worker wishes to be represented for the purposes of representation at the industry council by a particular union; (b) an authorization card, which may be electronic; (c) a membership application, which may be electronic; or (d) a petition by a network worker, provided the purpose of the petition is clearly stated on each page, which may be electronic. A statement of interest must be signed by the network worker and dated. A single statement of interest may state that a network worker wishes to be represented by one union as an RNC driver and another union as a DNC courier in cases where the worker qualifies both as an RNC driver and a DNC courier.

24. “Union” means any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining, contract administration, or other mutual aid or protection and which has demonstrated experience representing workers in the relevant industry, or a related one, and the size to effectively represent workers in the relevant industry, or, in the case of a newly created organization, is a local or affiliate of such an organization.

Section 752. Worker Flexibility. 1. With respect to network workers who provide services within the State through a network company’s online-enabled application or platform, the network company shall not:

(a) mandate dates, times of day, or a minimum number of hours during which the network worker must be logged into the network company’s online application or platform;

(b) terminate the contract of the network worker for not accepting a specific rideshare service or delivery service request;

- (c) restrict the network worker from performing services through any other network company except during engaged time;
- (d) restrict the network worker from performing work in any other lawful occupation.

2. The provisions in subdivision one may not be altered by any negotiated recommendations or industry regulations approved by this Board pursuant to this Act.

Section 753. Worker Rights. Network workers shall have the right to decide whether to provide a statement of interest, whether to vote for union representation, and whether to negotiate through representatives of their own choosing as provided in this article.

Section 754. Bargaining units. For the purposes of this article only, all network workers in the State shall be divided into two industry-wide bargaining units as follows: (1) DNC couriers and (2) RNC drivers.

Section 755. Labor Peace Agreements. 1. In order to facilitate a union's collection of statements of interest from active network workers in support of the union, within ninety days of the effective date of this statute, each network company in the State shall provide a statement to the Board that it will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement with a union until the negotiated recommendations have been approved by the Board. If a network company has not yet entered into a labor peace agreement with a union, the statement required under this paragraph shall include documentation demonstrating that the network company has made a good faith attempt to enter into such an agreement.

2. Except as provided in subdivision three, such labor peace agreements shall remain in place until the negotiated recommendations have been approved by the Board, and shall consist solely of the following commitments:

(a) The network company shall make available a system for the union to directly contact all network workers who completed at least five delivery requests or rides on the network company's platform in the previous twelve (12) months by providing for access to email all such network workers. The system shall not allow the direct transfer or sharing of personally identifiable information (PII), including email addresses, in accordance with the network company's Privacy Policy. The union shall not disclose, sell, publish, or otherwise disseminate any network worker contact information obtained from network companies to third parties, and shall not allow any other party to access the email system described in this paragraph.

(b) Every email sent pursuant to the process described in subdivision (a) shall allow recipients to opt out of future emails from the union, and the union and company shall ensure that all opt-out requests are honored in a timely fashion.

(c) The network company shall remain neutral with respect to whether a network worker submits a statement of interest and shall allow active network workers to determine whether to submit a statement of interest to be represented by the union in an atmosphere free from intimidation, restraint, coercion, or discrimination.

(d) The union shall not cause any material disruption of work by network workers contracting with the network company, including but not limited to by directly or indirectly causing or encouraging any other entity to cause any picketing, strikes, slow downs, or boycotts. Network companies shall refrain from temporarily halting all operations in a market for the purpose of interfering with organizing activities, negotiations, or any other union activity.

(e) The network company may not materially edit or withhold any messages from the union that comply with the labor peace agreement.

(f) The agreement may be terminated by mutual agreement, or in the event of a material breach of the agreement, by the non-breaching party.

3. (a) The parties may additionally agree that the union shall not disparage, defame, sully or compromise the goodwill, name, brand, or reputation of the network company and likewise that the network company shall not disparage, defame, sully or compromise the goodwill, name, brand, or reputation of the union.

(b) The parties may additionally agree to provisions providing for indemnification, assignment, and dispute resolution procedures.

4. A network company may not enter into a labor peace agreement with another union covering workers in that industry while an existing agreement is in effect.

5. If either party terminates a labor peace agreement before a certified representative has been recognized for the industry, the network company must notify the Board within thirty days and, within sixty days of such notification, must enter into a new labor peace agreement or show that it has made a good faith effort to do so, and abide by the terms of a labor peace agreement with a union as provided in subsection 1.

Section 756. Network Worker Relations Board. 1. The Network Worker Relations Board (“the Board”) is established within the Department of Labor. The Board shall consist of five members, including the Commissioner, or his or her designee, who shall serve as the Board’s chair, the New York State Comptroller, or his or her designee, the Superintendent of the Department of Financial Services, or his or her designee, and two members appointed by the Governor, including one chosen upon the recommendation of the temporary president of the senate to represent labor; one chosen upon the recommendation of the speaker of the assembly to represent network companies. The initial members of the Board must be appointed within ninety days of the effective date of this Act.

2. The Governor’s appointee chosen to represent network companies shall not be an officer, director, or employee of a network company.

3. Each member of the Board appointed by the Governor shall serve a term of four years. A member appointed to fill a vacancy shall be appointed for the unexpired term of the member whom the member is to succeed.

4. Members of the Board shall serve without compensation but may be reimbursed for expenses

incurred while carrying out the work of the Board.

5. Except as otherwise provided, the affirmative vote of at least three members of the Board shall constitute a majority for the transaction of any business and a quorum shall consist of a simple majority, provided at least two members are present representing the interests of the State.

6. All information provided to the Board by a network company or a union is designated confidential whether or not so marked, is not subject to disclosure to a third party by the Board without prior consent of the network company or union, and is exempt from disclosure under the Freedom of Information Law, N.Y. Pub. Off. Law, § 84-90. Nothing in this Section shall be construed as limiting the applicability of any other exemptions under the Freedom of Information Law, N.Y. Pub. Off. Law, § 84-90.

7. The Board shall establish rules to administer this article, consistent with and reflective of the specialized nature of this legislation. The board shall have authority from time to time to amend or rescind such rules as may be necessary to carry out the provisions of this article.

Section 757. Procedure for recognition. 1. For the purposes of this article, the Commissioner shall recognize as the certified industry-wide bargaining unit representative of the network workers in either bargaining unit, as set forth in section seven hundred and fifty-four of this article, a union that:

(a) has demonstrated experience in representing network workers or other related workers in reaching agreements with companies for at least five years;

(b) has submitted statements of interest in support of the union from at least ten percent of active network workers in the bargaining unit. Notwithstanding any other section of this article, any non-profit may assist a union in the collection of statements of interest. Such calculation shall be made by dividing the total number of submitted statements of interest by the sum of the number of active network workers in the industry; and

(c) is not a company union.

2. (a) The Commissioner shall determine whether an application of an organization seeking to be recognized as the certified industry-wide bargaining unit representative has met the criteria set forth in subdivision one, including by establishing

(i) a procedure to determine who qualifies as an active network worker pursuant to the process described in subdivision one of Section seven hundred fifty one, which process shall not permit the Commissioner to disclose any information that the Commissioner obtains from the collection of data from network companies to any party or third party, except that the Commissioner shall upon request disclose the median number of rides or deliveries and the total number of active workers for whom it has received data to network companies in the industry and to a union that states an intent to organize network workers in the industry. All such information obtained shall be exempt from disclosure under the Freedom of Information Law, N.Y. Pub. Off. Law, § 84-90. Network companies shall submit the data the Commissioner will require to perform this task within fifteen days of the initial request of the Commissioner and again within fifteen days of any later

request from the Commissioner. The Network Companies shall submit such data in an electronic format readable by typical commercially available means or as defined by the Commissioner.

(ii) a procedure to track the number of statements of interest submitted in support of a union and the percentage of active workers from which the union has received statements of interest, which shall include regular reporting of both metrics to the organization seeking to be recognized and all network companies in the industry.

(b) A union may demonstrate it has ten percent showing of interest by submission of any type of statement of interest as defined in Section 751.

(c) Any individual active network worker may only make and submit one statement of interest per industry within each twelve-month period unless the union the worker has chosen discontinues its efforts to represent drivers, and has notified the Commissioner of such decision. The Commissioner shall establish procedures to ensure that any second or subsequent statement of interest submitted by the same active network worker with respect to the same industry in a twelve month period is deemed void.

(d) The Commissioner shall review the union's application and, if the Commissioner determines that the union has met the criteria in subdivision one, then the Commissioner shall certify the union as the certified bargaining unit representative. The Commissioner shall have twenty days from receiving the union's application to make the determination.

(e) The Commissioner shall establish rules to govern the scenario in which more than one union submits an application meeting the criteria in subdivision one before any union has been certified as the certified industry-wide bargaining unit representative. Such rules may provide for an election between the qualifying unions to determine which, if any, of the unions is the preference of the majority of active network workers in the bargaining unit who participate in the election.

(f) The Commissioner shall use any personally identifiable information (PII) of network workers that the Commissioner receives solely for the purposes set forth in this article. Under no circumstances shall the Commissioner share the PII of network workers with any third party, including but not limited to any network company or any union.

3. The Board shall determine procedures for the decertification of a certified industry-wide bargaining unit representative, which shall require a showing in favor of decertification of thirty percent of active network workers in the bargaining unit, followed by a vote in which a majority of active network workers in the bargaining unit who participate in the vote favor decertification. In the event that a union is decertified by the Board, such union shall wait not less than twelve months before seeking certification to represent that same bargaining unit.

Section 758. Formation of the Industry Council. 1. Once the Commissioner determines that network workers in either bargaining unit are represented by a certified representative, The Commissioner shall notify all interested parties, including all network companies in that industry and the certified bargaining unit representative representing network workers in that industry, that the industry council for that industry has been formed.

2. Representation Fees. Beginning on the date that the certified representative is recognized, each network company in the industry shall facilitate the collection of representation fees on behalf of the certified representative union as described herein.

(a) Each RNC shall collect a customer fee of ten cents per ride on each ride originating in the State

performed by a network worker in 2021 and 2022. Beginning in 2023, the fee shall be adjusted annually 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 Board shall calculate and publish the adjustments required by this subparagraph.

(b) Each DNC shall collect a fee of ten cents on each delivery performed by a network worker for which the customer order is placed through its platform and the item is picked up in the State in 2021 and 2022. Beginning in 2023, the fee shall be adjusted annually 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 Board shall calculate and publish the adjustments required by this subparagraph.

(c) Nothing in this section shall be interpreted to require a network company to delineate the fee on customer receipts or otherwise communicate the fee in a particular way. Rather, network companies shall have discretion to determine how the fee is displayed to customers and in particular whether it is listed as a separate line item on customer receipts or combined with other fees, and how the purpose of the fee is described to customers. Any description of the representative fees shall be neutral and factual in nature.

(d) Such fees shall be remitted to the certified representative union on a monthly basis, with each payment occurring no more than thirty days following the end of the month.

(e) A portion of the fees collected pursuant to this section may be remitted to a non-profit controlled by a committee designated by the respective industry's industry council for the purpose of education about the industry.

3. The industry council for an industry shall meet to negotiate a set of negotiated recommendations as described in Section 759, with the first meeting taking place within sixty days of the industry council's formation.

Section 759. Negotiated Recommendations. 1. Within twelve months of the first meeting of the industry council for an industry, the council shall reach an industry-wide set of negotiated recommendations, which must include the following terms:

(a) Funding for a portable benefits fund established by the certified representative(s) for the benefit of network workers in the industry. The funding for the portable benefits fund shall be assessed on each network company in the industry in an amount equal to a non-zero percentage of network worker earnings in the previous quarter, with the percentage and definition of network worker earnings set forth in the negotiated recommendations.

(i) The funding shall be contributed to a non-profit organized by the industry council(s) for the purpose of providing benefits to network workers. The board of the nonprofit shall contain (A) a non-voting representative from each network company in the industry which facilitated more than five million rides or deliveries in the State in the year prior to its establishment, (B) a single voting representative chosen by the network companies, and (C) two voting representatives from each of the certified representative(s).

(ii) The board shall annually retain an independent auditor who shall have access to any information requested concerning the nonprofit's funding, expenses, and other financial matters, except to the extent the sharing of such information is prohibited by applicable laws.

(iii) The funding contributed to the nonprofit shall be used solely for the provision of benefits and the direct costs of administration of benefits.

(iv) The allocation of benefits to network workers in the industry may include (i) universal benefits provided to all network workers; and (ii) benefits available to a subset of workers in the industry who meet an hours or other threshold as determined by the negotiated recommendations.

(v) The negotiated recommendations may provide for the sharing of network worker data with the non-profit established pursuant to this subdivision for the purpose of determining worker eligibility for benefits and outreach to those workers to assist in administration of the benefits, provided that such data is kept confidential, is not shared with any other network company or any third party not directly involved in the administration or providing of benefits, and is stored securely and handled in a manner consistent with all applicable law.

(b) A deactivation appeals procedure for active network workers who claim to have been wrongly deactivated from a network company's platform.

(c) A minimum earnings standard for all rides and deliveries originating in the State, as set forth below:

(i) The minimum earnings standard shall require that for each earnings period, a network worker's earnings meets or exceeds a minimum threshold equal to the sum of:
(A) the per-hour rate multiplied by the applicable local minimum wage multiplied by the amount of engaged time; and

(B) the per-mile rate multiplied by the number of engaged miles.

(ii) For purposes of this section, the following definitions shall apply:

(A) Applicable local minimum wage means:

(1) for rides and deliveries for which pickup occurs in New York City, shall not be less than the amount established in subsection (1)(a)(i) of section six hundred and fifty two of Labor Law as the minimum wage for Large employers.

(2) for rides and deliveries for which pickup occurs in the remainder of downstate, shall not be less than the amount established in subsection (1)(b) of section six hundred and fifty two of Labor Law.

(3) for rides and deliveries for which pickup occurs in the remainder of the state, shall not be less than the amount established in subsection (1)(c) of section six hundred and fifty two of Labor Law.

(B) "Per-hour rate" means the percentage of applicable local minimum wage, which shall not be less than one hundred percent, that a network worker earns as part of the minimum earnings standard;

(C) "Per-mile rate" means the amount of compensation that a network worker earns for each engaged mile as part of the minimum earnings standard.

(iii) The minimum earnings standard shall additionally require that for each earnings period, a network worker's earnings, exclusive of any tips or gratuities received by the network worker, meets or exceeds the applicable local minimum wage multiplied by the amount of engaged time.

(iv) The negotiated recommendations shall set the monetary amount of the per-hour rate and the per-mile rate, each of which shall be a fixed numerical value that does not fluctuate, subject to the minimums established in (i) and (ii). The per-hour and per-mile rates may vary based on the locality in which a passenger or delivery item is picked up and may increase annually according to a fixed schedule. The per-mile rate may vary based on the network worker's vehicle type. Nothing shall prevent the industry council from agreeing to different per-hour rates based on different portions of engaged time. For clarity, the per-hour and per-mile rate shall not be based on any actual or measured wait time or actual or measured expenses. The per-hour and per-mile rates shall not vary on any basis other than as identified in this paragraph.

(d) Terms providing for the certified representative's ability to contact network workers in the industry consistent with the system established for use under labor peace agreements.

(e) Formation of "works councils" or similar groups in which one or more representatives from the certified representative union meets on a quarterly or semiannual basis with one or more representatives from an industry member company to advise on any issues of concern to network workers such as efficiency, safety, communication, best practices, and clarification of the network company's policies. Such meetings shall not be bargaining sessions and there shall not be a mandatory duty to reach any agreement, and the network company shall have no obligation to respond to any requests for information or company data.

(f) Terms relating to the negotiated recommendations' duration, which shall be at least five years for negotiated recommendations agreed to by the industry council, or no more than two years when any terms of the negotiated recommendations were subject to an arbitrated resolution. In cases where the term of any industry regulations expire, they shall remain in force until replaced by new industry regulations under the procedures described in this section.

2. The negotiated recommendations may include additional topics if agreed to by the industry member companies and the certified representative.

3. Each network company shall retain exclusive rights to develop, maintain, and control the operation and design of its digital network, including but not limited to the products, product features, proprietary software algorithms, operations plan, pricing, network worker earnings not otherwise subject to industry regulations, and other such systems and processes. Each network company shall additionally have the right to plan, determine, expand, contract, direct and control the nature and extent of all of its operations, including with respect to areas of service; to manage its business efficiently and profitably; and in all respects to carry out the ordinary and customary functions of the business. This subdivision shall not be interpreted to permit a network company to avoid the obligations in any industry regulations approved by the Board.

4. The nonprofit organization established may facilitate the more efficient provision of benefits to network workers who are members of more than one bargaining unit in ways that may provide for the transfer of funds between accounts established for different industries.

5. (a) If there are multiple industry member companies engaged in bargaining together with the certified representative on an industry council, the negotiated recommendations must be approved by (i) at least two industry member companies and (ii) at least eighty percent of the industry member companies, with votes determined in proportion to the number of rides or deliveries completed by network workers contracting directly with the network company in the two quarters preceding the recognition of the certified representative.

(b) To facilitate negotiations, the industry member companies may form an industry association to negotiate on their behalf.

(c) Within thirty days of the recognition of a certified representative, the industry member companies shall submit data to an agreed-upon neutral third party for the purpose determining this proportion described in subsection (a)(ii) for each company. After calculating the proportion for

each company, the neutral third party shall notify the industry member companies and the Board.

6. During the negotiation process, members of the industry council shall not be required to disclose non-public business, commercial, financial, or personal information, except pursuant to any process established by the Board providing for an appropriate protective order.

7. Once the industry council has reached a set of negotiated recommendations for that industry, the negotiated recommendations shall be submitted by the certified representative to a vote by all active network workers in the industry.

8. If approved by a majority of active network workers who vote, the negotiated recommendations shall be submitted to the Board for approval.

(a) The approval of the majority of the Board shall be required for any negotiated recommendations to be made industry regulations. The Board shall review the negotiated recommendations to ensure that their content is consistent with the public policy goals set forth in this Article. The Board shall consider in its review both qualitative and quantitative effects of the negotiated recommendations, how the negotiated recommendations comport with the state policies set forth in this statute, and any available business data and economic studies. The Board is authorized to (a) approve all or part of the negotiated recommendations; (b) reject all or part of the negotiated recommendations, and require the parties to submit a revised proposal on rejected parts of the negotiated recommendations. In approving or rejecting the negotiated recommendations, the Board shall set forth its reasoning in writing, and, in the event that the Board rejects all or part of the negotiated recommendations, shall suggest ways the parties may remedy the failure(s). Absent good cause, the Board shall issue a determination within one hundred twenty days of submission of the negotiated recommendations.

(b) In conducting a review, the record shall not be limited to the submissions of the parties nor to the terms of the negotiated recommendations. The Board shall have the right to gather and consider any necessary evidence, including by conducting public hearings and requesting additional information from the parties. The Board shall have the power to subpoena any information or witnesses it requires to conduct its business.

9. Once approved, the negotiated recommendations shall be deemed industry regulations, which shall govern all network workers in the relevant industry and shall be binding on all network companies in the industry beginning sixty days after the Board's approval. The Board shall establish procedures under which it maintains a list of all network companies in each industry operating in the State, which shall be updated at least quarterly. The procedures shall create a process whereby a union or network company can report unlisted network companies to the Board, which will ensure the list is updated promptly if appropriate.

10. The Board shall have the authority to withdraw the industry regulations if the Board determines that the industry regulations no longer adhere to the provisions of this article or that they no longer promote the public policy goals set forth in this article. The Board may withdraw approval only after providing the certified representative and industry member companies with written notice of the proposed withdrawal of the industry regulations, the grounds therefore, and an opportunity to

be heard regarding the proposed withdrawal. The Board's withdrawal of the industry regulations shall be effective only upon the issuance of a written explanation of the reasons why the industry regulations no longer adhere to the provisions of this article or no longer further the public policy goals set forth in this article. If the Board withdraws approval of the industry regulations, the certified representative and industry member companies may submit new negotiated recommendations.

11. If within twelve months of being certified by the board, or within two months of the end of the term of existing industry regulations or the withdrawal by the Board of approval of existing industry regulations, the industry council fails to reach agreement on a set of negotiated recommendations, the parties may request that the Board appoint a mediator. After mediation lasting no more than two months has been exhausted and no resolution has been reached, or if the negotiated recommendations are rejected in a vote by the network workers, the certified representative shall put to a vote of its members whether they would like to bring unresolved issues to arbitration. If a majority of the voters vote not to go to arbitration the union will have thirty days to continue bargaining. At the end of the thirty days the industry member companies shall present their last and best offer which the certified representative shall put to their network workers for a vote of approval. If a majority of the workers who vote in favor of the offer it shall be delivered to the Board for review subject to sub-section 8 of this section. If a majority of the network workers who vote against the offer, the certified union will be decertified as representative of the workers and the network companies will have ninety days to sign Labor Peace Agreements with a new union or submit documentation demonstrating a good faith attempt to do so, as required under section 755 of this article. If the voting members choose to go to arbitration, unresolved issues shall be submitted to binding arbitration through a panel of arbitrators consisting of one arbitrator selected by the certified representative, one arbitrator selected by the industry member companies, and a third arbitrator selected by the other two. If the two selected arbitrators cannot agree within 10 days, then the third arbitrator shall be determined as follows: from a list of seven (7) arbitrators with experience in labor disputes and/or interest arbitration designated by the American Arbitration Association, the side requesting arbitration shall strike a name. Thereafter the other side shall strike a name. The process will continue until one name remains, who shall be the arbitrator. Alternatively, the certified representative and industry member companies may agree to a single arbitrator. The network companies and the certified representative shall each have fourteen days to choose an arbitrator, and those two arbitrators shall have thirty days to pick a third arbitrator. The arbitrator(s) must complete their recommendations within sixty days of the panel being chosen.

(a) The certified representative shall bear one-quarter of the cost of the arbitration, and the industry member companies shall bear the rest, with each company bearing a proportion equal to its voting proportion for approval of the proposed negotiated recommendations.

(b) For each issue listed in subdivision 1 of Section 759 that is unresolved, the arbitrator(s) shall select, by majority vote, whichever last offer of settlement on that issue it finds by a preponderance of evidence furthers the policy goals set forth in this article and adopt that offer as its recommendation. The arbitrator(s) shall not have authority to issue a recommendation or make any type of determination on any issue not listed in subdivision one of Section 759. In proposing recommendations, the arbitrator(s) shall consider the following criteria:

- (i) Any stipulations of the parties;
- (ii) The State's interest in promoting the provision of reliable and economical network rideshare and delivery services;
- (iii) The well-being of network workers;
- (iv) The network companies' financial condition and need to ensure a reasonable return on investment and/or profit;
- (v) The impact on consumers;
- (vi) The current state of network worker earnings, benefits, and working conditions; and
- (vii) The policies of the Act.
- (c) In the event of a failure to reach a negotiated minimum earnings standard, the arbitrator(s) shall propose a per-hour rate and per-mile rate for the minimum earnings standard subject to the requirements of paragraph c of subdivision one of Section 759. In proposing the per-hour and per-mile rates, the arbitrator(s) shall consider the respective positions of the network companies and the certified representative, as well as the state's interest, as enumerated in section six hundred fifty of the labor law, in ensuring the typical network worker in a given industry earns at least a minimum wage.
- (d) The arbitrator(s) shall simultaneously transmit the proposed negotiated recommendations to the Board, the certified representative, and the industry member companies with a written report that sets forth the basis for the arbitrator(s)'s resolution of any disputed issues.
- (e) The certified representative and the industry member companies may each individually challenge the proposed negotiated recommendations within fourteen days of receipt on any of the following grounds: that the arbitrator(s) were biased, that the arbitrator(s) exceeded their authority, or that a provision of the proposed negotiated recommendations are arbitrary and capricious. In the event of such a challenge, the Board shall provide notice to the parties, allow them the opportunity to be heard, and make a determination as to whether any of the challenges asserted should be sustained.
- (f) Following the arbitrator(s)'s delivery of recommendations, and the resolution of any challenge made to the Board, a set of negotiated recommendations incorporating the arbitrator(s)'s recommendations shall be submitted to the Board for approval as set forth in subdivision 8.

Section 760. Prevention of unfair labor practices. 1. A network company shall not:

- (a) refuse to negotiate in good faith with a certified representative in the bargaining process provided for in Section 759 without first declaring their intention not to be a part of the industry council negotiations and forfeiting their vote thereon;
- (b) fail to make a good faith effort to enter into nor fail to comply with the terms of a labor peace agreement;
- (c) fail to comply with enacted industry regulations;
- (d) interfere with, restrain, coerce, discharge or otherwise discriminate against any network worker in the exercise of the rights provided to the network worker under Section 753 of this article; or
- (e) offer to provide money or anything of value to any network worker with the intent of encouraging that network worker to exercise, or to refrain from exercising, their rights under Section 753 of this article, other than anything identified as an exception in 29 U.S. Code § 186(c).

2. A union shall not:

(a) restrain or coerce network workers in the exercise of the rights provided to the network worker by this article or by any other provisions of State law;
(b) restrain or coerce a network company in the selection of its representatives for the purposes of bargaining;
(c) to cause or attempt to cause a network company to discriminate against any network worker in violation of (1)(d);
(d) refuse to negotiate in good faith with network companies in the bargaining process provided for in Section 758;
(e) fail to comply with the terms of a labor peace agreement or industry regulations under this Act;
(f) cause or attempt to cause a network company to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are not performed or not to be performed, other than anything identified as an exception in 29 U.S. Code § 186(c); or
(g) threaten, coerce, or restrain any person engaged in commerce or in an industry affecting commerce to cease doing business with a network company.

3. The Commissioner shall have complete and exclusive authority to enforce the requirements of this Section. Only a network company, a network worker, or a union may initiate an enforcement action by filing a charge in writing with the Commissioner laying out the factual basis for the charge. An unfair labor practice charge must be filed within six months of the incident giving rise to the charge.

4. An investigation by the Commissioner of alleged violations of the provisions of this section shall include such investigatory techniques as deemed necessary pursuant to rules adopted by the board.

5. If the Commissioner finds reasonable cause to believe an unfair labor practice has been committed, it shall issue a notice stating that:

(a) the Commissioner found reasonable cause to believe a violation has been committed and must be remedied;

(b) the person or entity allegedly in violation of the section is entitled to a hearing before the board to present evidence to the contrary; and

(c) a make-whole remedy, which may include injunctive relief, decertification, reactivation, and lost earnings, and in the event the Board finds a violation to be willful and in bad faith the Board may require an additional penalty payment of up to \$10,000.

6. The person or entity named on the notice of violation must file with the Commissioner a request for a hearing within thirty calendar days after receipt of the notice of violation.

7. If the person or entity named on the notice of violation fails to timely request a hearing, the notice of violation shall be final and the Commissioner may impose a remedial order as set out in 5(c) above.

Section 761. Judicial Review. The certified representative, any network company, or any party to an investigation or enforcement proceeding relating to an alleged unfair labor practice may obtain judicial review of any Board determination or a determination by the Commissioner by filing a written petition praying that the order, decision, or action of the Board or Commissioner be modified or set aside in the appropriate branch of the New York Supreme Court within fourteen days from the date of the board's or Commissioner's order, decision, or action. The Board's or Commissioner's determination may only be modified or set aside if it is found to be (a) outside the scope of the Board's or Commissioner's authority, (b) arbitrary or capricious, (c) the result of fraud or undue means, (d) not supported by substantial evidence, or (e) inconsistent with law. If the court denies the petition in whole or in part, any penalty set forth above shall run from the court's decision, unless that court determines that the filing of the petition was clearly without merit or was filed not in good faith or for the sole purpose of delay.

Section 762. Compliance with Employer Obligations. 1. If a network company is in substantial compliance with this article, any obligations that such network company has with respect to network workers, including but not limited to any obligations related to taxation, wages, insurance, and terms and conditions of work, under any law beyond this article, including but not limited to all other articles of the labor law, the tax law, and the executive law, the workers' compensation law, and the Unemployment Insurance Code, and any orders, regulations, or opinions of the Department of Labor or any board, division, or commission within the Department of Labor, but not including articles 6-f, 6-g, and 6-i of the executive law, including any obligations such network company has with respect to the Black Car Fund or the Delivery Network Courier Injury Compensation Fund, and article 18-a of the labor law, shall be deemed fully satisfied and the network company shall be fully exempt from those obligations, provided that, prior to the recognition of a certified representative for the relevant industry, the network company has entered into a Labor Peace Agreement as described in Section 755. Any party seeking to establish otherwise bears the burden of doing so by clear and convincing evidence.

2. To the extent a network worker that is subject to this Article is found to have any rights with respect to his or her work as a network worker under any law beyond this Article, including but not limited to all other articles of the labor law, the tax law, and the executive law, the workers' compensation law, and the Unemployment Insurance Code, and any orders, regulations, or opinions of the Department of Labor or any board, division, or commission within the Department of Labor, but not including articles 6-f, 6-g, and 6-i of the executive law, including any obligations such network company has with respect to the Black Car Fund or the Delivery Network Courier Injury Compensation Fund, and article 18-a of the labor law, those rights shall be deemed to be satisfied in full, the network company shall be exempt from any obligations concerning those rights, and the network worker shall not be considered the agent of the network company for any purpose, if the network company with which the network worker contracts is in substantial compliance with the obligations imposed by this Article provided that, prior to the recognition of a certified representative for the relevant industry, the network company has entered into a Labor Peace Agreement as described in Section 755. Any party seeking to establish otherwise bears the burden of doing so by clear and convincing evidence.

3. If a network company willfully and substantially disregards the obligations of any effective industry regulations issued under this article, the attorney general of the State shall, within thirty

days of learning of such noncompliance, alert the network company of the noncompliance and provide thirty days for the network company to comply. If the network company does not comply within thirty days, the attorney general of the state shall seek an injunction or other court order restricting the network company from operating in the State. Any court in which such an injunction is sought shall rule on the attorney general's motion on an emergency basis and, if the court determines that the network company is willfully and substantially disregarding the obligations of any industry regulations, shall order that the network company cease operations in the State immediately until the noncompliance is remedied, and such order shall describe with reasonable particularity the actions the network company must take to return to compliance. If the court finds that the noncompliance cannot with reasonable efforts be remedied, it shall provide a reasonable time for the network company to come into compliance before the injunction takes effect.

Section 763. Unlawful discriminatory practices. It is an unlawful practice, unless based upon a bona fide occupational qualification or public or network worker safety need, for a network company to refuse to contract with, terminate the contract of, or deactivate from the network company's online-enabled application or platform, any network worker or prospective network worker based upon actual or perceived age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, partnership status, sexual and reproductive health decisions, caregiver status, immigration or citizenship status, status as a victim of domestic violence, sex offenses, or stalking, or other protected class identified in subdivision one of section two hundred ninety-six of the executive law.

Section 764. Authority to Regulate. Upon the enactment of this Article:

1. Jurisdiction in all matters concerning network companies, the relationship between network companies and network workers or any other third parties is, by this chapter, vested exclusively in the state. Therefore, notwithstanding any other provision of law, no city, county or locality shall establish or enforce a minimum wage applicable to network workers and/or network companies. In addition, no city, county or locality shall establish or enforce any taxes, limitations on fees or surcharges applicable to network workers and/or network companies, or any other provision concerning network companies, the relationship between network companies and network workers or any other third parties enacted after the date of enactment of this act; and

2. Until such time as a minimum earnings standard is established pursuant paragraph c of subdivision 1 of section 759, network companies engaging RNC drivers who are network workers in New York City who would otherwise subject to the driver income rules promulgated on August 14, 2018 pursuant to Section 1043 of the Charter of the City of New York, shall ensure that such drivers' earnings in any given earnings period meet or exceed the gross amount of \$0.502 per minute spent transporting passengers, and \$1.103 per mile transporting passengers.

Section 765. Severability. The provisions of this article shall be severable and if any phrase, clause, sentence or provision of this article or the applicability thereof to any person or circumstance shall be held invalid, the remainder of this article and the application thereof shall not be affected thereby, except that if either Section 752, Section 753, Section 758, or Section 762 is held invalid, then the entire article shall be held invalid.

Section 2. Subdivision 3 of section 2 of the workers' compensation law is amended by adding a

new closing paragraph to read as follows:

Notwithstanding any other provision of this chapter, and for purposes of this chapter only, the employer of a delivery network company courier who is a network worker, as those terms are defined in article 20-D of the labor law, shall, on and after the fund liability date, as defined in article six-I of the executive law, be the delivery network courier injury compensation fund, inc. created pursuant to such article.

Section 3. Subdivision 4 of section 2 of the workers' compensation law is amended by adding a new closing paragraph to read as follows:

Notwithstanding any other provision of this chapter, and for purposes of this chapter only, a delivery network company courier who is a network worker, as those terms are defined in article 20-D of the labor law, shall, on and after the fund liability date, as defined in such article, be an "employee" of the delivery network courier injury compensation fund, inc. created pursuant to such article.

Section 4. Subdivision 5 of section 2 of the workers' compensation law is amended by adding a new closing paragraph to read as follows:

Notwithstanding any other provision of this chapter, and for purposes of this chapter only, a delivery network company courier who is a network worker, as those terms are defined in article 20-D of the labor law, shall, on and after the fund liability date, as that term is defined in such article, be regarded as in the "employment" of the delivery network courier benefit fund, inc. created pursuant to such article.

Section 5. Section 11 of the workers' compensation law is amended by adding a new closing paragraph to read as follows:

The liability under this chapter of the delivery network courier injury compensation fund, inc. shall be limited to: (i) securing the payment of workers' compensation in accordance with article six-I of the executive law to delivery network company couriers who are network workers, as those terms are defined in article 20-D of the labor law, whose injury arose out of and in the course of providing services facilitated by a delivery network company, as defined in article 20-D of the labor law, that is a registered member of such fund, and (ii) any statutory penalty resulting from the failure to secure such payment. The liability under this chapter of a delivery network company, as defined in article 20-D of the labor law, that is a registered member of the delivery network courier injury compensation fund, inc. that shall be limited to remaining a registered member in good standing of such fund and any statutory penalty, including loss of immunity provided by this section, resulting from the failure to become or remain a registered member in good standing of such fund, except, however, that such delivery network company shall be subject to the provisions of section one hundred thirty-one of this chapter and shall be liable for any payments for which it may become responsible pursuant to such section or pursuant to section fourteen-a of this chapter.

Section 6. Section 14-a of the workers' compensation law is amended by adding a new subdivision 6 to read as follows:

6. With respect to a delivery network courier who, pursuant to section two of this chapter, is an employee of the delivery network courier injury compensation fund, inc., the delivery network company for which the delivery network company courier was performing services at the time of the accident shall be solely responsible for the double payments described in subdivision one of this section, to the extent that such payments exceed any amounts otherwise payable with respect to such delivery network company courier under any other section of this chapter, and the delivery network courier injury compensation fund, inc. shall have no responsibility for such excess payments, unless there shall be a failure of the responsible delivery network company to pay such award within the time provided under this chapter. In the event of such failure to pay, the board may require the fund to pay the award on behalf of the delivery network company that is found to have violated this section. In such a case, the fund shall be entitled to an award against the delivery network company for the excess amount paid by the fund, which shall be collected in the same manner as an award of compensation.

Section 7. The workers' compensation law is amended by adding a new section 18–d to read as follows:

§ 18–d. Notice; the delivery network courier injury compensation fund, inc. Whenever notice is required to be given to an employer pursuant to this chapter, such requirement shall be satisfied, with respect to an accident or injury to a delivery network company courier who is a network worker, as those terms are defined in article 20-D of the labor law, occurring on or after the fund liability date, as defined in such article, by giving such notice to the delivery network courier injury compensation fund, inc., except that in the case of a claim arising under section fourteen-a of this article, notice must be given to the fund and to the delivery network company, as defined in article 20-D of the labor law, which facilitated the services the delivery network company courier was performing at the time of the accident.

Section 8. Section 50 of the workers' compensation law is amended by adding a new subdivision 9 to read as follows:

9. The requirements of sections ten and eleven of this chapter regarding the securing and provision of workers' compensation benefits as to a delivery network company, as defined in article 20-D of the labor law, are satisfied in full by compliance with the requirements imposed upon such delivery network company by such article. Insurance coverage directly procured by any delivery network company for the purpose of satisfying the requirements of this chapter with respect to employees of the delivery network company shall not include coverage of any delivery network company courier who is a network worker, as those terms are defined in article 20-D of the labor law, to the extent that the delivery network company courier is also covered under coverage secured by the delivery network courier injury compensation fund, inc. pursuant to the requirements of article six-I of the executive law, and to that extent, coverage secured by the fund pursuant to the requirements of article six-I of the executive law shall be considered primary.

Section 9. Section 89 of the workers' compensation law is amended by adding a new closing paragraph to read as follows:

Premiums for insurance policies issued to satisfy article 6-I of the executive law may be determined based upon distance traveled.

Section 10. The executive law is amended by adding a new article 6–I to read as follows:

ARTICLE 6–I DELIVERY NETWORK COURIER INJURY COMPENSATION FUND, INC.

Section 160–aaaaa. Definitions.

Section 160–bbbbb. Delivery network courier injury compensation fund, inc.

Section 160–ccccc. Supervision of delivery network companies.

Section 160–ddddd. Management of the fund; board of directors.

Section 160–eeeee. Plan of operation.

Section 160–fffff. Membership in the fund; registration with the department.

Section 160–ggggg. Securing of compensation.

Section 160–hhhhh. Assessment of fund members; customer surcharges; audit powers of the fund, the board and the fund’s insurer.

Section 160–iiii. Financial oversight of the fund.

Section 160–jjjjj. Exemption from taxes.

Section 160–kkkkk. Liability insurance.

Section 160–lllll. Regulations.

Section Section 160–mmmmm. Violations; penalties; appeals.

Section 160–aaaaa. Definitions

For the purposes of this article:

1. “Delivery network company” means the same as defined in article 20-D of the labor law.

2. “Delivery network company courier” means a DNC courier, as defined in article 20-D of the labor law, who is a network worker.

3. “Delivery services” means the same as defined in article 20-D of the labor law.

4. “Department” means the Department of State.

5. “Engaged time” means the same as defined in article 20-D of the labor law.

6. “Fund” means the delivery network courier injury compensation fund as established in this article.

7. “Fund Liability Date” means the earlier of: (a) the date as of which the board first approves the fund’s application to self-insure pursuant to subdivision two of section one hundred sixty-ii of this article, or (b) the date on which coverage commences under the initial insurance policy purchased by the fund pursuant to subdivision three of section one hundred sixty-ii of this article.

8. “On-trip miles” means miles traveled by a Delivery network company courier during engaged time.

9. “Secretary” means the secretary of state.

Section 160–bbbb. Delivery network courier injury compensation fund, inc. There is hereby created a not-for-profit corporation to be known as the delivery network courier injury compensation fund, inc. To the extent that the provisions of the not-for-profit corporation law do not conflict with the provisions of this article, or with the plan of operation established pursuant to this article, the not-for-profit corporation law shall apply to the fund, which shall be a charitable corporation pursuant to the not-for-profit corporation law. If an applicable provision of this article or of the fund’s plan of operation relates to a matter embraced in a provision of the not-for-profit corporation law but is not in conflict therewith, both provisions shall apply. The fund shall perform its functions in accordance with its plan of operation established and approved pursuant to section one hundred sixty-eeee of this article and shall exercise its powers through a board of directors established pursuant to this article.

Section 160–cccc. Supervision of delivery network companies. A delivery network company shall, with respect to the provisions of this article, be subject to the supervision and oversight of the department as provided in this article.

Section 160–dddd. Management of the fund; board of directors. 1. Within sixty days of the effective date of this article, there shall be appointed by the governor a board of directors of the fund, consisting of nine directors, five of whom shall be chosen without prior nomination and each of whom shall be an officer, director, or senior-level employee of a delivery network company; and four of whom shall be chosen by the governor, including one chosen upon the recommendation of the temporary president of the senate and one chosen upon the recommendation of the speaker of the assembly, and one of whom shall be the secretary, who shall serve ex officio. The initial terms of directors other than the secretary shall be staggered, the four directors appointed by the governor serving for initial terms of three years from the effective date of this article, three of the remaining five directors serving for initial terms of two years from the effective date of this article and two directors serving for initial terms of one year from the effective date of this article. The subsequent terms of all directors shall be three years. The board of directors shall have the power to remove for cause any director other than the secretary. The failure of any nominating authority to appoint a director within the time set by this subdivision shall not bar the fund from operating, so long as at least six directors have been appointed.

2. The directors shall elect annually from among their number a chair and a vice chair who shall act as chair in the chair’s absence.

3. For their attendance at meetings, the directors of the fund shall be entitled to compensation, as authorized by the directors, in an amount not to exceed two hundred dollars per meeting per director and to reimbursement of their actual and necessary expenses.

4. Directors of the fund, except as otherwise provided by law, may engage in private or public employment or in a profession or business.

5. (a) All of the directors shall have equal voting rights and five or more directors shall constitute a quorum. The affirmative vote of five directors shall be necessary for the transaction of any business or the exercise of any power or function of the fund.

(b) The fund may delegate to one or more of its directors, officers, agents or employees such powers and duties as it may deem proper.

(c) A vacancy occurring in a director position shall be filled in the same manner as the initial appointment to that position, provided however that no individual may serve as director for more than three successive terms.

Section 160–eeee. Plan of operation. 1. Within ninety days of the appointment of the full board of directors, the fund shall file with the department its plan of operation, which shall be designed to assure the fair, reasonable and equitable administration of the fund. The plan of operation and any subsequent amendments thereto shall become effective upon being filed with the department.

2. The plan of operation shall constitute the by-laws of the fund and shall, in addition to the requirements enumerated elsewhere in this article:

- (a) establish procedures for collecting and managing the assets of the fund;
- (b) establish regular places and times for meetings of the fund’s board of directors;
- (c) establish the procedure by which the fund shall determine whether to provide the benefits due pursuant to this article by self-insuring or by purchasing insurance;
- (d) establish accounting and record-keeping procedures for all financial transactions of the fund, its agents and the board of directors;
- (e) establish a procedure for determining and collecting the appropriate amount of surcharges and assessments under this article;
- (f) set forth the procedures by which the fund may exercise the audit rights granted to it under this article;
- (g) establish procedures to ensure prompt and accurate notification to the fund by its members of all accidents and injuries to delivery network company couriers, and provide for full reimbursement of the fund by any delivery network company whose failure to provide such notification results in the imposition of a penalty on the fund by the board; and
- (h) contain such additional provisions as the board of the fund may deem necessary or proper for the execution of the powers and duties of the fund.

§ 160–ffff. Membership in the fund; registration with the department. 1. The membership of the fund shall be composed of all delivery network companies. Each delivery network company shall be required, as a condition of doing business within this state, to pay the department a two hundred dollar annual fee for the purpose of registering as a member of the fund and receiving a certificate of registration. Such sums shall be used by the department for the administration of this article. The initial registration fee shall be due no later than ninety days after the effective date of this article. The department shall provide the fund with an updated list of registrants on a monthly basis.

2. Within sixty days of the appointment of the full board, the board of the fund shall, on the basis of information from trade papers and other sources, identify the delivery network companies subject to this article and, on a regular and ongoing basis, confirm that all such entities have registered in accordance with subdivision one of this section.

3. The fund shall, within one hundred fifty days of the appointment of the full board, provide to its members a copy of the proposed plan of operation filed with the department and shall inform its members of their rights and duties pursuant to this article.

Section 160–ggggg. Securing of compensation. 1. Within one hundred fifty days of the effective date of the plan of operation, the fund shall secure the payment of workers’ compensation to all delivery network company couriers entitled thereto pursuant to this chapter by either: (a) self-insuring in accordance with subdivision three of section fifty of the workers’ compensation law and the rules promulgated by the board pursuant to such section or (b) purchasing workers’ compensation insurance covering, on a blanket basis, all delivery network company couriers who

are the fund's employees pursuant to section two of the workers' compensation law.

2. If the fund initially seeks to apply to the board for authorization to self-insure pursuant to subdivision three of section fifty of the workers' compensation law, it shall submit its application and accompanying proof to the board within one hundred fifty days of the appointment of the full board. The board shall notify the fund and the secretary in writing of any change in the fund's status as a self-insurer or of any additional requirements that the board may deem necessary for continuation of such status.

3. If the fund chooses to secure the payment of workers' compensation pursuant to the workers' compensation law by purchasing an insurance policy from the state insurance fund or a, licensed insurer, it shall file with the department no later than thirty days after the commencement of a new policy year a copy of the policy it has purchased. In such case, the department shall be treated by the insurer as a certificate holder for purposes of receiving notice of cancellation of the policy.

4. No provision of this article shall be construed to alter or affect the liability under the workers' compensation law of any delivery network company with respect to delivery network company couriers prior to the fund liability date.

Section 160–hhhhh. Assessment of fund members; customer surcharges; audit powers of the fund, the board and the fund's insurer. 1. To pay (a) the costs of the insurance purchased pursuant to subdivision three of section one hundred sixty-ggggg of this article or (b) the benefits due under the workers' compensation law in the event the fund self-insures pursuant to subdivision two of section one hundred sixty-ggggg of this article, and to pay (c) its expenses in carrying out its powers and duties under this article and (d) its liabilities, if any, pursuant to section fourteen-a of the workers' compensation law, the fund shall ascertain by reasonable estimate the total funding necessary to carry on its operations.

2. Based upon its estimation of operating costs, the fund shall establish a proposed amount per on-trip mile driven surcharge. The proposed surcharge shall become effective thirty days after being filed with the department. Each member of the fund shall be liable for payment to the fund of an amount equal to the product of (i) the amount per on-trip mile driven due pursuant to this article and (ii) the number of on-trip miles driven by the the delivery network company courier providing delivery services through its platform, as provided in this subdivision.

3. Each delivery network company shall submit to the fund with its monthly payment a detailed accounting of the on-trip miles delivery services during the previous month. The first such payment and accounting shall be due on the fifteenth day of the month following the imposition of the surcharge pursuant to subdivision two of this section.

4. The department shall not issue, continue or renew any license or registration certificate for the operation of any delivery network company unless such delivery network company, as a condition of maintaining its license and/or registration certificate complies with subdivision three of this section.

5. Should the fund determine that the surcharge amounts that have been paid to it are inadequate to meet its obligations under this article, it shall determine the surcharge rate required to eliminate such deficiency and shall file such revised surcharge rate with the department in accordance with subdivision two of this section. Commencing thirty days after such filing, the members of the fund shall charge the revised surcharge rate and shall pay to the fund the total amount of surcharges in accordance with this article.

6. The fund shall have the power directly or through its agent to conduct premium audit of its members solely to verify their compliance with the on-trip mileage reporting requirements of

subdivision 3 of this section. The fund or its agent shall be afforded convenient access at all reasonable hours to all books, records and other documents of its members that may be relevant to such premium audits. Compliance with this section shall not constitute waiver of any legal privilege, confidentiality, or trade secret protection.

7. For the purposes of conducting premium audits, an insurer providing coverage to the fund pursuant to this article may treat the members of the fund as policyholders.

Section 160–iiii. Financial oversight of the fund. No later than May first of each year, the fund shall submit to the governor and legislature certified financial statements prepared in accordance with generally accepted accounting principles by a certified public accountant. The members of the fund shall be required on and after January first of each year to afford the certified public accountant convenient access at all reasonable hours to all books, records and other documents, including but not limited to invoices and vouchers, necessary or useful in the preparation of such statements and in the verification of the monthly statements submitted to the fund. Compliance with this section shall not constitute waiver of any legal privilege, confidentiality, or trade secret protection. The requirements in this section shall commence on the first May after the effective date of the plan of operations.

Section 160–jjjj. Exemption from taxes. The fund shall be exempt from payment of all fees and taxes levied by this state or any of its subdivisions, except taxes levied on real property.

Section 160–kkkk. Liability insurance. The fund shall purchase such insurance as is necessary to protect the fund and any director, officer, agent or other representative from liability for their administration of the fund, and shall, to the extent permitted by law, indemnify such directors, officers, agents or other representatives and hold them harmless from liability for their administration of the fund.

Section 160–llll. Regulations. The department shall adopt regulations implementing the provisions of this article, including the conduct and notice of hearings held pursuant to section one hundred sixty-mmmmm of this article.

Section 160–mmmm. Violations; penalties; appeals. 1. (a) If the secretary believes a violation of this article by a fund member may have occurred, the secretary shall upon notice to the fund member, hold to determine whether such violation occurred.

(b) If the fund believes that a delivery network company has failed to pay the fund the assessments due pursuant to this article, or has failed to pay the reimbursement due pursuant to paragraph (g) of subdivision two of section one hundred sixty-eeee of this article, it shall make a referral to the department. Upon receipt of such a referral, the department shall be required to hold a hearing pursuant to paragraph (a) of this subdivision.

2. Except as otherwise provided in this section, a fund member that is found, after a hearing held pursuant to subdivision one of this section, to have violated a provision of this article, or a rule promulgated by the department pursuant to this article, shall be liable for a fine in an amount not to exceed ten thousand dollars per violation. Notwithstanding the foregoing, a fund member that fails to submit to the fund the required surcharges shall be subject, in addition to payment to the fund of the amount overdue plus interest on such amount as herein provided, to a penalty, at the

discretion of the department, of (a) up to five thousand dollars for each twenty days the payment is overdue, or (b) revocation of its membership in the fund and of its certificate of registration, or (c) both a monetary penalty and revocation of its membership in the fund and of its certificate of registration. The rate of interest applicable pursuant to this section shall be twelve percent per annum. Any monetary penalty imposed pursuant to this subdivision shall be retained by the department and be used to defray the costs of administering this article.

Failure of the delivery network company to pay any assessments or penalties awarded pursuant to this subdivision within twenty days of issuance of a valid order so to do, or in the event an appeal has been taken from the determination of the department, to deposit with the secretary within twenty days of the issuance of the determination from which the appeal is taken the total amount of the award as security for its payment, shall entitle the secretary to file with the clerk of Albany county a certified copy of the determination of the department, and thereupon judgment shall be entered in the supreme court by the clerk of Albany county in conformity therewith immediately upon such filing. Such judgment shall be entered in the same manner, have the same effect and be subject to the same proceedings as though rendered in a suit duly heard and determined by the supreme court, except that no appeal may be taken therefrom.

3. Within twenty days after issuance by the department of a determination adverse to a delivery network company following a hearing held pursuant to subdivision one of this section, an appeal may be taken therefrom to the appellate division of the supreme court, third department, by the aggrieved delivery network company. The attorney general shall represent the department thereon.

Section 11. The labor law is amended by adding a new article 18-A to read as follows:

ARTICLE 18-A

NETWORK WORKER LOSS OF INCOME

Section 644. Definitions.

Section 645. Administration.

Section 646. Coverage.

Section 647. Contributions and network worker earnings information.

Section 648. Time limitations.

Section 649. Experience rating.

Section 649-a. Subsidiary contribution.

Section 649-b. Benefits and claims

Section 649-c. Benefits for network workers after loss of work authorization.

Section 649-d. Miscellaneous provisions.

§ 644. Definitions. When used in this article:

1. "Base period" shall mean one of the following: For the purpose of paragraph a of subdivision twenty-four of this section, the term base period shall mean the first four of the last five completed calendar quarters ending with the week immediately preceding the filing of a valid original claim. For the purpose of paragraph b of subdivision twenty-four of this section, the term base period shall mean the last four completed calendar quarters ending with the week immediately preceding

the filing of a valid original claim.

2. “Benefit” shall mean an amount payable to a network worker claimant for income replacement benefits.

3. “Benefit year” shall mean the period of fifty-two consecutive weeks beginning with the first Monday after a network worker claimant files a valid original claim.

4. “Commissioner” shall mean the Commissioner of Labor of the state of New York.

5. “Compensation” shall have the same meaning as “earnings” in article 20-D of the labor law.

6. “Delivery network company” (“DNC”) shall have the same meaning as in article 20-D of the labor law.

7. “Delivery network company courier” (“DNC courier”) shall have the same meaning as in article 20-D of the labor law.

8. “Department” shall mean the Department of Labor of the state of New York.

9. “Fund” shall mean the Unemployment Insurance fund of the state of New York.

10. “Rideshare network company” (“RNC”) shall have the same meaning as in article 20-D of the labor law.

11. “Rideshare network company driver” (“RNC driver”) shall have the same meaning as in article 20-D of the labor law.

12. “Network company” shall have the same meaning as in article 20-D of the labor law.

13. “Network worker” shall have the same meaning as in article 20-D of the labor law.

14. “Network worker claimant” shall mean any network worker seeking benefits for income replacement under this article.

15. “Network worker loss of income” shall mean a network worker’s total loss of access to one or more network company platforms from which the network worker has earned compensation.

16. “Network worker earnings” shall have the same meaning as “earnings” in article 20-D of the labor law, except that such term does not include compensation paid to a network worker by, or for which payment is facilitated by, a network company before two thousand seven hundred dollars and after eleven thousand eight hundred dollars have been paid to a network worker by, or for which payment is facilitated by, the network company during any calendar year, except that such term does not include earnings paid to a network worker by, or for which payment is facilitated by, a network company beginning with the first day of

| | <u>that is below</u> | <u>that exceeds</u> |
|---------------------|----------------------|---------------------|
| <u>January 2022</u> | <u>\$3,000</u> | <u>\$12,000</u> |
| <u>January 2023</u> | <u>\$3,075</u> | <u>\$12,300</u> |
| <u>January 2024</u> | <u>\$3,125</u> | <u>\$12,500</u> |
| <u>January 2025</u> | <u>\$3,200</u> | <u>\$12,800</u> |
| <u>January 2026</u> | <u>\$3,250</u> | <u>\$13,000</u> |

and each year thereafter on the first day of January that exceeds sixteen percent of the amount of the state of New York’s average annual wage as determined by the commissioner on an annual basis pursuant to section five hundred twenty-nine of the labor law and that is below one-quarter of that amount.

17. “Worker earnings paid” shall mean paid on the date such payments are made.

18. “State” shall mean, in addition to the states of the United States of America, the District of Columbia, Puerto Rico, and the Virgin Islands of the United States.

19. Total loss of income and partial loss of income. (a) “Total loss of income” means that a network worker is experiencing both a total network worker loss of income and total unemployment, as defined in section five hundred twenty-two of the labor law, on every day of any week.

(b) “Partial loss of income” means that a network worker is experiencing a network worker loss of income with respect to one or more network companies, and the sum of any compensation and any remuneration received by the network worker is less than one hundred thirty-three percent multiplied by the sum of the network worker’s weekly benefit amount, as defined in subparagraph i of paragraph d of subdivision two of section six hundred forty-nine-b of this article, and the network worker’s average remuneration benefit.

20. “Total network worker loss of income” means a network worker loss of income, as defined in subdivision fifteen of this section, where the network worker is unable to access all network company platforms from which the network worker has earned compensation in the network worker’s base period or alternate base period.

21. “Effective week” means (a) a week during which a network worker claimant has a total loss of income as defined in this section, or (b) a week during which a network worker claimant has a partial loss of income as defined in this section.

22. “Remuneration” shall have the same meaning as defined in section five hundred seventeen of the labor law.

23. “Average remuneration benefit” means one seventy-eighth of the remuneration earned from employment during the three highest calendar quarters of the base period, provided the network worker claimant has earned such remuneration in three or all four calendar quarters during the network worker’s base period or alternate base period. However, when a network worker claimant has earned such remuneration in only two calendar quarters in the base period or alternate base period, the network worker claimant’s average remuneration benefit shall be one fifty-second of the remuneration earned from employment in the two quarters, and when a network worker

claimant has earned such remuneration in only one calendar quarter in the base period or alternate base period, the network worker claimant's average remuneration benefit shall be one twenty-sixth of the remuneration earned from employment in the quarters. The average remuneration benefit, so computed, that is not a multiple of one dollar shall be lowered to the next multiple of one dollar. The maximum average remuneration benefit shall be equal to the maximum benefit amount set forth in subdivision five of section five hundred ninety of the labor law.

24. Valid original claim. (a) Basic condition. "Valid original claim" is a claim filed by a network worker claimant on or after the first of January two thousand twenty-two who meets the following qualifications: (i) is able to work, and available for work; (ii) is not subject to any disqualification or suspension under this article; (iii) the claimant's previously established benefit year, if any, has expired; and (iv) has been paid compensation by, or for which payment was facilitated by, a network company, other than network companies to which the network worker claimant has lost access for a reason enumerated in subdivision three of section six hundred forty-nine-b of this article, for work as a network worker, during at least two calendar quarters of the base period, with compensation of one and one-half times the high calendar quarter compensation within the base period and with at least two hundred twenty-one times the minimum wage established under subparagraph i of paragraph a of subdivision one of section six hundred fifty-two of the labor law. For purposes of this section, the compensation in the high calendar quarter of the base period used in determining a valid original claim shall not exceed an amount equal to twenty-two times the maximum benefit rate set forth in paragraph d of subdivision two of section six hundred forty-nine-b of this article.

(b). Alternate condition. An individual who is unable to file a valid original claim in accordance with paragraph a of this subdivision, may file a valid original claim on or after the first of January two thousand twenty-two by meeting the qualifications enumerated in subparagraphs i, ii, and iii of paragraph a of this subdivision and by having been paid compensation by, or for which payment was facilitated by, a network company, other than network companies from which the network worker claimant has lost access for a reason enumerated in subdivision three of section six hundred forty-nine-b of this article, for work as a network worker during at least two calendar quarters of the base period, with compensation of one and one-half times the high calendar quarter compensation within the base period and with at least two hundred twenty-one times the minimum wage established under subparagraph i of paragraph a of subdivision one of section six hundred fifty-two of the labor law. For purposes of this section, the compensation in the high calendar quarter of the base period used in determining a valid original claim shall not exceed an amount equal to twenty-two times the maximum benefit rate set forth in paragraph d of subdivision two of section six hundred forty-nine-b of this article.

(c). An individual who is able to file a valid original claim in accordance with paragraph a of this subdivision, may make an application to the commissioner to determine the network worker's entitlement to benefits and benefit rate pursuant to paragraph a of this subdivision under the following conditions: (i) The network worker claimant must file such application within ten days of the date the monetary determination was mailed by the department; and (ii) in those circumstances where a quarterly report in relation to the alternate condition is not due or has not been received, the network worker claimant must provide proof of compensation paid for such quarter to the commissioner's satisfaction in order for the network worker claimant's application

to be considered. Under those circumstances where such application results in the network worker claimant being able to file a valid original claim under the basic condition and the alternate condition, the network worker claimant may select the condition to be utilized.

(d). Disability. In the case of a network worker claimant who did not file a valid original claim solely because the network worker claimant was not paid sufficient compensation, and who received workers' compensation payments or any benefits paid pursuant to the volunteer firefighters benefit law during the base period specified in subdivision one of this section, said period shall be extended. The term of the extension shall be equivalent to the number of calendar quarters during which the network worker claimant received such payments, but shall not exceed two calendar quarters.

(e). General condition. A valid original claim may be filed only in a week that qualifies as an effective week, as defined in subdivision twenty-one of this section, for the network worker claimant.

(f). Utilization of worker earnings credits. Compensation used to establish a valid original claim pursuant to paragraph a, b, or c of this subdivision, may not be considered for the purpose of establishing a subsequent valid original claim.

(g). Work Requirement. An individual who has filed a previous valid original claim pursuant to this section must have worked in employment and been paid remuneration for such work, or worked as a network worker and been paid compensation for such work, since the beginning of such previous claim in an amount equal to at least ten times the network worker claimant's weekly benefit rate in order to be able to file a subsequent valid original claim.

25. "Week" shall mean seven consecutive days beginning with Monday.

26. "Highest calendar quarters" means the three quarters of a network claimant's base period or alternate base period in which the sum of any compensation and any remuneration earned is cumulatively the highest.

§ 645. Administration. 1. Except as otherwise provided in this article, the commissioner shall establish procedures to govern the administration of this article that are identical, to the extent possible, to those set forth in sections five hundred thirty through five hundred forty of the labor law with respect to unemployment insurance claims.

2. Allocation of contributions. For each payment of contributions, or interest, the commissioner shall allocate (a) ninety-five percent of such monies to be deposited and maintained in the fund, and (b) five percent of such monies to the supplemental income replacement fund described in subdivision three of this section.

3. Supplemental income replacement fund. (a) The commissioner shall establish and maintain a "supplemental income replacement fund," which shall exist separate and apart from the fund. As used in this article, the term "supplemental fund" means the supplemental income replacement

fund described in this paragraph. The supplemental fund shall consist of all contributions, and interest allocated for deposit in the fund pursuant to subdivision two-b of this section.

(b) Supplemental fund sole source of benefits. The supplemental fund shall be administered in trust and shall be used solely to pay benefits pursuant to section six hundred forty-nine-c of this article to any otherwise eligible and qualified network worker claimant who would be ineligible to receive or disqualified from receiving such benefits due to the fact that he or she is a non-citizen of the United States whose work authorization from the U.S. Citizenship and Immigration Services has lapsed. All payments shall be made upon vouchers drawn on the supplemental fund by the commissioner in accordance with procedures established by the commissioner. The supplemental fund shall be the sole and exclusive source for the payment of benefits under this provision and section six hundred forty-nine-c of this article, which shall be due and payable only to the extent that contributions and other payments to the supplemental fund with increments thereon, actually collected and credited to the supplemental fund and not otherwise appropriated or allocated, are available therefor.

4. Except as otherwise provided in this article, monies paid in the form of benefits under this article and any related expenses incurred by the department in connection with this article shall be funded through the fund.

5. Except as otherwise provided in this article, the commissioner shall establish procedures to govern hearings and appeals that are held or filed in accordance with this article that are identical, to the extent possible, to those set forth in sections six hundred twenty through six hundred twenty-six of the labor law with respect to unemployment insurance claims.

6. Information contained in records of the department pertaining to administration of this article, including information obtained by the department from network companies and network workers pursuant to this article, shall be subject to the disclosure prohibitions for unemployment insurance information pursuant to section five hundred thirty-seven of the labor law.

7. The incorporation into this article of, and any reference to, certain provisions of Article 18 of the labor law shall not in any way void or alter the classification status of any network worker covered by this article.

§ 646. Coverage. 1. A network company shall make contributions under this article with respect to any network worker to whom it has paid or facilitated the payment of network worker earnings in any calendar quarter. Such contributions shall be calculated commencing on the first day of such calendar quarter.

2. A network company that is covered under the terms set forth in this section shall cease to be covered under such terms as of the first day of the calendar quarter next following the filing of its written application, provided the commissioner finds that the network company has not paid or facilitated the payment of network worker earnings to any network worker in any of the four calendar quarters preceding such day.

§ 647. Contributions and network worker earnings information. 1. Each network company

operating in the state of New York shall pay contributions as provided under this section. Contributions shall become payable by any network company for network worker earnings paid by, or for which payment is facilitated by, the network company on and after the date on which it becomes subject to the coverage of this article. All contributions from network companies shall be paid at such times and in such manner as the commissioner may prescribe and shall be allocated by the commissioner in the manner described in subdivision two of section six hundred forty-five of this article.

2. For the five quarters beginning on the first of October two thousand twenty-one, each network company shall pay contributions on all network worker earnings paid by, or for which payment is facilitated by, the network company at the rate of one and six-tenths per centum.

3. Beginning on the first of January two thousand twenty three, each network company shall pay contributions on all network worker earnings paid by, or for which payment is facilitated by, the network company at a rate consisting of a normal rate as set forth in subdivision two of section six hundred forty-nine and a subsidiary rate as set forth in section six hundred forty-nine-a of this article.

4. Default. A network company that fails to pay contributions required to be made by such network company pursuant to this article shall pay interest at the rate of one half of one per centum of the amount of such contributions for each month it is in default. Such interest shall be assessed, collected and paid as part of the payment required to be made by the network company pursuant to this article.

5. Refunds and credits. If a network company shall make application for a refund of any monies paid by it or for a credit thereof and the commissioner shall determine that such monies were erroneously collected, the commissioner shall refund said amount or allow a credit therefor, in accordance with the procedure prescribed in subdivision five of section five hundred seventy of the labor law.

6. Agreement to contributions by network workers void. No agreement by a network worker to pay any portion of the payment made by a network company under this article shall be valid and no network company shall make a deduction for such purpose from the compensation of any network worker.

7. Quarterly Reports. (a) All network companies that are subject to the coverage of this article shall file a quarterly report detailing the preceding calendar quarter's network worker earnings information, and such quarter's contributions. Such reports shall be filed no later than the last day of the month following the last day of each calendar quarter.

(b) A network company shall, at the time prescribed by this section for filing each quarterly report, pay over to the department or to a depository designated by the department the contributions required to be paid over with such report.

(c) If a network company fails to file a quarterly report as required by this section, or if such report when filed is incorrect or insufficient and the network company fails to file a corrected or sufficient

report within thirty days after the commissioner requires the same by written notice, the commissioner shall determine the amount of contribution due from such network company and the amount of network worker earnings paid by, or for which payment is facilitated by, the network company, on the basis of such information as may be available and shall give written notice of such determination to the network company. Such determination shall finally and irrevocably fix the amount of contribution and the amount of network worker earnings paid by, or for which payment is facilitated by, the network company for the purpose of computing contribution rates, unless the commissioner shall modify the amounts thereof, as provided under this article, subject, however, to the right to a hearing, for which procedures shall be established as provided in subdivision five of section six hundred forty-five of this article.

8. Any network company who has become subject to the coverage of this article shall promptly notify the commissioner of such fact.

9. If a network company defaults in any payments required to be made by it pursuant to this article, after due notice, the amount due from the network company shall be collected by civil action against the network company brought in the name of the commissioner, and the same, when collected shall be paid into the fund. Such network company's compliance with the provisions of this article requiring payments to be made to the fund shall date from the time of the payment of said money so collected. Civil actions brought in the name of the commissioner under this section to collect contributions or interest from a network company shall be entitled to preference, conferred by law to actions brought by any state officer as such, upon the calendar of all courts.

10. (a) Priority of contributions. In the event of the dissolution, insolvency, composition, or assignment for benefit of creditors of any network company, contributions then and thereafter due from such network company under this article, together with any interest thereon, shall (i) be on a parity with taxes (other than real property taxes), together with any interest thereon, due the state of New York or any city thereof and (ii) have priority over all other claims, except taxes due the United States and wages due for employment performed within the three months preceding such event. In the event of an network company's adjudication in bankruptcy, judicially confirmed extension proposal, composition, or reorganization under the federal bankruptcy act, contributions then and thereafter due under this article, together with any interest thereon, shall be entitled to such priority as is provided in such act.

(b) Discharge in bankruptcy. If the commissioner was given due notice or had knowledge of the bankruptcy proceedings, the payment of contributions due, together with any interest thereon, which accrued on or before the date of the petition for bankruptcy and which remain unpaid upon the discharge of the network company in bankruptcy by a court of competent jurisdiction, shall not be enforced unless civil action is begun not later than two years after the date of such discharge and their total amount is two thousand dollars or more.

11. Every network company shall keep a true and accurate record of each network worker with whom it contracts, including each network worker's name; if available, social security number; and the amount of compensation paid to the network worker through the network company's platform and shall furnish to the commissioner, upon demand, a sworn statement of the same. Such records shall be open to inspection at any reasonable time and as often as may be reasonable to verify the number of network workers and the amount of their compensation.

§ 648. Time Limitations. 1. Determinations of coverage and amount of contributions. No determination pursuant to section six hundred forty-seven of this article of the amount of contributions due shall be made more than three years after the last day of the calendar year in which the network worker earnings on which such contributions are based were paid except as provided in subdivision two of this section.

2. Determinations of coverage and amount of contributions after contest. If a network company contests an assessment for contributions, a determination of the amount of contributions due for the contested period and subsequent periods may be made at any time prior to the latter of the following: (a) three years after the last day of the calendar year in which the network worker earnings on which such contributions are based were paid; or (b) two years after the last day of the calendar year in which such assessment for contributions became final and irrevocable.

3. Enforcement of payment of contributions. Payment of contributions due on the basis of network worker earnings reported by the network company, and payment of contributions due on the basis of a determination made pursuant to section six hundred forty-seven of this article within the time limit provided in subdivisions one and two of this section may be enforced by civil action only if such action is begun within two years after the last day of the calendar year in which such report was received by the commissioner or in which such determination became final and irrevocable.

4. Enforcement of payment after extension agreement. If a deferred payment agreement has been entered into by the network company, the payment which is the subject of the agreement may be enforced by civil action if such action is filed within two years after the last day of the calendar year in which the final payment was due pursuant to such agreement.

5. Date of determination. For the purpose of this section no determination shall be deemed to have been made until the date upon which notice of such determination is mailed or delivered personally to the network company affected thereby.

§ 649. Experience rating. 1. Definitions. When used in this article:

(a) "Computation date" shall mean December thirty-first of any year.

(b) "Experience rating charge" means a debit to a network company's network worker account reflecting a payment of benefits.

(i) Whenever benefits are paid to a network worker claimant under this article, experience rating charges shall be debited to the appropriate network worker account. The commissioner shall notify each network company not more frequently than monthly and not less frequently than quarterly as to each experience rating charge which is being made to the network company's network worker account. Such notice shall be a determination of the propriety of such charge and of the payment of benefits on which such charge was based.

(ii) Benefits payable to any network worker claimant under this article with respect to the network worker claimant's then current benefit year shall be charged, when paid, to the network worker account of each network company on whose platform the network worker earned compensation during the quarters on the basis of which the claimant's benefit amount is calculated, pursuant to

paragraph d of subdivision two of section six hundred forty-nine-b of this article, in the same proportion that the compensation paid by, or for which payment was facilitated by, the network company during such quarters bears to the compensation paid by, or for which payment is facilitated by, all network companies to the network worker claimant during such quarters, except that in the case of a partial network worker loss of income, only the network worker account(s) of the network company or companies from whose platform the network worker has lost access shall be charged as described herein.

(iii) A network company's network worker account shall not be charged, and the charges shall instead be made to the general account, for benefits paid to a network worker claimant after the expiration of a period of disqualification from benefits following a final determination that the network worker claimant is disqualified under one of the circumstances set forth in subdivision three of section six hundred forty-nine-b of this article and the charges are attributable to network worker earnings paid by, or for which payment is facilitated by, the network company to the network worker claimant during the network worker's base period for work on a network company's platform prior to the network worker claimant's disqualification, provided, however, that a network company shall not be relieved of charges pursuant to this subparagraph if a network company or its agent fails to submit information resulting in an overpayment pursuant to the commissioner.

(iv) If a network company whose platform the network worker claimant accessed in the four weeks immediately preceding the filing of a valid original claim demonstrates that the network company has continuously provided the network worker claimant with access to its platform without significant interruption and substantially to the same extent and in the same manner as during the weeks immediately preceding the filing of a valid original claim in which the network worker claimant was using such network company's platform, the network worker account of such network company shall not be charged with benefits paid to such network worker claimant for any such weeks, and such experience rating charges shall be made to the general account.

(c) (i) "Network company's network worker account" means an account in the fund reflecting a network company's experience with respect to contribution payments and experience rating charges under this article. The commissioner shall maintain such a network worker account for every network company subject to coverage under this article; but nothing in this article shall be construed to grant any network company or any network worker's prior claims or rights to the amount paid by it into the fund and credited to the network company's network worker account, or to any other account, including the general account, either on its own behalf or on behalf of any network worker. All monies contributed to the fund, from whatever source derived and to whatever account credited, shall be pooled and available to pay benefits from the fund to any individual entitled thereto under this article.

(ii) Any contributions due but not paid within sixty days of the due date prescribed by regulation of the commissioner shall, when paid, not be credited to a network company's network worker account, but shall be credited to the general account, unless such payment was made prior to determination and demand by the commissioner pursuant to paragraph c of subdivision seven of section six hundred forty-seven of this article.

(iii) Any network company may at any time make payments to its network worker account in the fund in excess of the requirements of this article. Such payments made during the period from April first through March thirty-first of the following year shall be credited to the network company's network worker account as of the computation date occurring within such period.

(iv) For the purpose of determining the size of fund index, all payments in lieu of contributions and voluntary, excess contribution payments made by network companies shall be included in the fund balance on the computation date next following the date of payments. Such excess contributions shall be irrevocable and not subject to refund or credit after acceptance by the commissioner and deposit in the fund.

(d) “Network company’s network worker account percentage” means the status of a network company’s network worker account on any computation date. It is the balance remaining in the account, after contributions have been credited and experience rating charges have been debited to it, stated as percentage of average compensation paid by, or for which payment is facilitated by, the network company for the last five payment years preceding the computation date or for all quarters if the network company has been covered by this article for fewer than twenty-one quarters. Such percentage shall be computed to two decimal places and the remaining fraction if any, disregarded. If, however, the number of consecutive completed calendar quarters ending on the computation date during which the network company has been covered by this article is twenty-one or less the network company’s network worker account percentage, if it is positive, shall be multiplied by that figure assigned to the network company designated as “network company’s benefit equalization factor” which is listed below on the same horizontal line on which the number of quarters of network company liability appears, and the product resulting therefrom shall constitute the network company’s network worker account percentage.

| <u>Number of quarters network company has been covered under this article</u> | <u>Network company’s benefit equalization factor</u> |
|---|--|
| <u>5</u> | <u>3.00</u> |
| <u>6</u> | <u>2.50</u> |
| <u>7</u> | <u>2.05</u> |
| <u>8</u> | <u>1.75</u> |
| <u>9</u> | <u>1.55</u> |
| <u>10</u> | <u>1.40</u> |
| <u>11</u> | <u>1.25</u> |
| <u>12</u> | <u>1.12</u> |
| <u>13</u> | <u>1.04</u> |
| <u>14 through 21</u> | <u>1.00</u> |

(e) “Payment year” means the period beginning on October first of a year and ending on September thirtieth of the next following year.

(f) “Qualified network company” means any network company whose network worker account reflects its experience with respect to network worker loss of income under this article throughout not less than the four consecutive completed calendar quarters ending on the computation date and who has paid some network worker earnings in the payment year preceding the computation date and filed all contribution reports prescribed by the commissioner for the payment year preceding the computation date on or before such date, or has had an amount of contributions due and/or an amount of network worker earnings paid by, or for which payment is facilitated by, the network company determined by the commissioner pursuant to paragraph c of subdivision seven of section

six hundred forty-seven of this article. If a network company has ceased to be covered under this article, such network worker account balance shall be transferred to the general account on the computation date coinciding with or immediately following the date on which the network company's liability ceased and shall not thereafter be available to such network company in the event that the network company again becomes liable for contributions.

(g) "Size of fund index" shall have the same meaning as in section five hundred eighty one of the labor law.

(h) "General account" shall have the same meaning as in five hundred seventy-seven of the labor law.

2. Normal rates of contribution. (a) Each qualified network company shall pay a normal rate of contribution equal to the percentage shown in the column headed by the size of the fund index as of the computation date and on the same line with its negative or positive network company's network worker account percentage, with such normal rate of contribution applied to network worker earnings paid by, or for which payment is facilitated by, the network company:

| <u>Network Company's NEGATIVE Account Percentage</u> | <u>Size of Fund Index</u> | | | | | | | | | | | |
|--|-----------------------------|--|--|--|--|--|--|--|--|--|--|-----------------------------|
| | <u>Less than 0%</u> | <u>0% but less than 0.5%</u> | <u>0.5% but less than 1.0%</u> | <u>1.0% but less than 1.5%</u> | <u>1.5% but less than 2.0%</u> | <u>2.0% but less than 2.5%</u> | <u>2.5% but less than 3.0%</u> | <u>3.0% but less than 3.5%</u> | <u>3.5% but less than 4.0%</u> | <u>4.0% but less than 4.5%</u> | <u>4.5% but less than 5.0%</u> | <u>5.0% or more</u> |
| <u>21.0% or more</u> | <u>8.9</u> | <u>8.7</u> | <u>8.5</u> | <u>8.3</u> | <u>8.1</u> | <u>7.3</u> | <u>6.9</u> | <u>6.5</u> | <u>6.2</u> | <u>6.1</u> | <u>6.0</u> | <u>5.9</u> |
| <u>20.5% or more but less than 21.0%</u> | <u>8.8</u> | <u>8.6</u> | <u>8.4</u> | <u>8.2</u> | <u>8.0</u> | <u>7.2</u> | <u>6.8</u> | <u>6.4</u> | <u>6.1</u> | <u>6.0</u> | <u>5.9</u> | <u>5.8</u> |
| <u>20.0% or more but less than 20.5%</u> | <u>8.7</u> | <u>8.5</u> | <u>8.3</u> | <u>8.1</u> | <u>7.9</u> | <u>7.1</u> | <u>6.7</u> | <u>6.3</u> | <u>6.0</u> | <u>5.9</u> | <u>5.8</u> | <u>5.7</u> |
| <u>19.5% or more but less than 20.0%</u> | <u>8.6</u> | <u>8.4</u> | <u>8.2</u> | <u>8.0</u> | <u>7.8</u> | <u>7.0</u> | <u>6.6</u> | <u>6.2</u> | <u>5.9</u> | <u>5.8</u> | <u>5.7</u> | <u>5.6</u> |
| <u>19.0% or more but less than 19.5%</u> | <u>8.5</u> | <u>8.3</u> | <u>8.1</u> | <u>7.9</u> | <u>7.7</u> | <u>6.9</u> | <u>6.5</u> | <u>6.1</u> | <u>5.8</u> | <u>5.7</u> | <u>5.6</u> | <u>5.5</u> |
| <u>18.5% or more but less than 19.0%</u> | <u>8.4</u> | <u>8.2</u> | <u>8.0</u> | <u>7.8</u> | <u>7.6</u> | <u>6.8</u> | <u>6.4</u> | <u>6.0</u> | <u>5.7</u> | <u>5.6</u> | <u>5.5</u> | <u>5.4</u> |
| <u>18.0% or more but less than 18.5%</u> | <u>8.3</u> | <u>8.1</u> | <u>7.9</u> | <u>7.7</u> | <u>7.5</u> | <u>6.7</u> | <u>6.3</u> | <u>5.9</u> | <u>5.6</u> | <u>5.5</u> | <u>5.4</u> | <u>5.3</u> |
| <u>17.5% or more but less than 18.0%</u> | <u>8.2</u> | <u>8.0</u> | <u>7.8</u> | <u>7.6</u> | <u>7.4</u> | <u>6.6</u> | <u>6.2</u> | <u>5.8</u> | <u>5.5</u> | <u>5.4</u> | <u>5.3</u> | <u>5.2</u> |

| | | | | | | | | | | | | |
|--|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| <u>17.0% or more but less than 17.5%</u> | <u>8.1</u> | <u>7.9</u> | <u>7.7</u> | <u>7.5</u> | <u>7.3</u> | <u>6.5</u> | <u>6.1</u> | <u>5.7</u> | <u>5.4</u> | <u>5.3</u> | <u>5.2</u> | <u>5.1</u> |
| <u>16.5% or more but less than 17.0%</u> | <u>8.0</u> | <u>7.8</u> | <u>7.6</u> | <u>7.4</u> | <u>7.2</u> | <u>6.4</u> | <u>6.0</u> | <u>5.6</u> | <u>5.3</u> | <u>5.2</u> | <u>5.1</u> | <u>5.0</u> |
| <u>16.0% or more but less than 16.5%</u> | <u>7.9</u> | <u>7.7</u> | <u>7.5</u> | <u>7.3</u> | <u>7.1</u> | <u>6.3</u> | <u>5.9</u> | <u>5.5</u> | <u>5.2</u> | <u>5.1</u> | <u>5.0</u> | <u>4.9</u> |
| <u>15.5% or more but less than 16.0%</u> | <u>7.8</u> | <u>7.6</u> | <u>7.4</u> | <u>7.2</u> | <u>7.0</u> | <u>6.2</u> | <u>5.8</u> | <u>5.4</u> | <u>5.1</u> | <u>5.0</u> | <u>4.9</u> | <u>4.8</u> |
| <u>15.0% or more but less than 15.5%</u> | <u>7.7</u> | <u>7.5</u> | <u>7.3</u> | <u>7.1</u> | <u>6.9</u> | <u>6.1</u> | <u>5.7</u> | <u>5.3</u> | <u>5.0</u> | <u>4.9</u> | <u>4.8</u> | <u>4.7</u> |
| <u>14.5% or more but less than 15.0%</u> | <u>7.6</u> | <u>7.4</u> | <u>7.2</u> | <u>7.0</u> | <u>6.8</u> | <u>6.0</u> | <u>5.6</u> | <u>5.2</u> | <u>4.9</u> | <u>4.8</u> | <u>4.7</u> | <u>4.6</u> |
| <u>14.0% or more but less than 14.5%</u> | <u>7.5</u> | <u>7.3</u> | <u>7.1</u> | <u>6.9</u> | <u>6.7</u> | <u>5.9</u> | <u>5.5</u> | <u>5.1</u> | <u>4.8</u> | <u>4.7</u> | <u>4.6</u> | <u>4.5</u> |
| <u>13.5% or more but less than 14.0%</u> | <u>7.4</u> | <u>7.2</u> | <u>7.0</u> | <u>6.8</u> | <u>6.6</u> | <u>5.8</u> | <u>5.4</u> | <u>5.0</u> | <u>4.7</u> | <u>4.6</u> | <u>4.5</u> | <u>4.4</u> |
| <u>13.0% or more but less than 13.5%</u> | <u>7.3</u> | <u>7.1</u> | <u>6.9</u> | <u>6.7</u> | <u>6.5</u> | <u>5.7</u> | <u>5.3</u> | <u>4.9</u> | <u>4.6</u> | <u>4.5</u> | <u>4.4</u> | <u>4.3</u> |
| <u>12.5% or more but less than 13.0%</u> | <u>7.2</u> | <u>7.0</u> | <u>6.8</u> | <u>6.6</u> | <u>6.4</u> | <u>5.6</u> | <u>5.2</u> | <u>4.8</u> | <u>4.5</u> | <u>4.4</u> | <u>4.3</u> | <u>4.2</u> |
| <u>12.0% or more but less than 12.5%</u> | <u>7.1</u> | <u>6.9</u> | <u>6.7</u> | <u>6.5</u> | <u>6.3</u> | <u>5.5</u> | <u>5.1</u> | <u>4.7</u> | <u>4.4</u> | <u>4.3</u> | <u>4.2</u> | <u>4.1</u> |
| <u>11.5% or more but less than 12.0%</u> | <u>7.0</u> | <u>6.8</u> | <u>6.6</u> | <u>6.4</u> | <u>6.2</u> | <u>5.4</u> | <u>5.0</u> | <u>4.6</u> | <u>4.3</u> | <u>4.2</u> | <u>4.1</u> | <u>4.0</u> |
| <u>11.0% or more but less than 11.5%</u> | <u>6.9</u> | <u>6.7</u> | <u>6.5</u> | <u>6.3</u> | <u>6.1</u> | <u>5.3</u> | <u>4.9</u> | <u>4.5</u> | <u>4.2</u> | <u>4.1</u> | <u>4.0</u> | <u>3.9</u> |
| <u>10.5% or more but less than 11.0%</u> | <u>6.8</u> | <u>6.6</u> | <u>6.4</u> | <u>6.2</u> | <u>6.0</u> | <u>5.2</u> | <u>4.8</u> | <u>4.4</u> | <u>4.1</u> | <u>4.0</u> | <u>3.9</u> | <u>3.8</u> |
| <u>10.0% or more but less than 10.5%</u> | <u>6.7</u> | <u>6.5</u> | <u>6.3</u> | <u>6.1</u> | <u>5.9</u> | <u>5.1</u> | <u>4.7</u> | <u>4.3</u> | <u>4.0</u> | <u>3.9</u> | <u>3.8</u> | <u>3.7</u> |
| <u>9.5% or more but less than 10.0%</u> | <u>6.6</u> | <u>6.4</u> | <u>6.2</u> | <u>6.0</u> | <u>5.8</u> | <u>5.0</u> | <u>4.6</u> | <u>4.2</u> | <u>3.9</u> | <u>3.8</u> | <u>3.7</u> | <u>3.6</u> |

| | | | | | | | | | | | | |
|--|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| <u>9.0% or more but less than 9.5%</u> | <u>6.5</u> | <u>6.3</u> | <u>6.1</u> | <u>5.9</u> | <u>5.7</u> | <u>4.9</u> | <u>4.5</u> | <u>4.1</u> | <u>3.8</u> | <u>3.7</u> | <u>3.6</u> | <u>3.5</u> |
| <u>8.5% or more but less than 9.0%</u> | <u>6.4</u> | <u>6.2</u> | <u>6.0</u> | <u>5.8</u> | <u>5.6</u> | <u>4.8</u> | <u>4.4</u> | <u>4.0</u> | <u>3.7</u> | <u>3.6</u> | <u>3.5</u> | <u>3.4</u> |
| <u>8.0% or more but less than 8.5%</u> | <u>6.3</u> | <u>6.1</u> | <u>5.9</u> | <u>5.7</u> | <u>5.5</u> | <u>4.7</u> | <u>4.3</u> | <u>3.9</u> | <u>3.6</u> | <u>3.5</u> | <u>3.4</u> | <u>3.3</u> |
| <u>7.0% or more but less than 8.0%</u> | <u>6.2</u> | <u>6.0</u> | <u>5.8</u> | <u>5.6</u> | <u>5.4</u> | <u>4.6</u> | <u>4.2</u> | <u>3.8</u> | <u>3.5</u> | <u>3.4</u> | <u>3.3</u> | <u>3.2</u> |
| <u>6.0% or more but less than 7.0%</u> | <u>6.1</u> | <u>5.9</u> | <u>5.7</u> | <u>5.5</u> | <u>5.3</u> | <u>4.5</u> | <u>4.1</u> | <u>3.7</u> | <u>3.4</u> | <u>3.3</u> | <u>3.2</u> | <u>3.1</u> |
| <u>5.0% or more but less than 6.0%</u> | <u>6.0</u> | <u>5.8</u> | <u>5.6</u> | <u>5.4</u> | <u>5.2</u> | <u>4.4</u> | <u>4.0</u> | <u>3.6</u> | <u>3.3</u> | <u>3.2</u> | <u>3.1</u> | <u>3.0</u> |
| <u>4.0% or more but less than 5.0%</u> | <u>5.9</u> | <u>5.7</u> | <u>5.5</u> | <u>5.3</u> | <u>5.1</u> | <u>4.3</u> | <u>3.9</u> | <u>3.5</u> | <u>3.2</u> | <u>3.1</u> | <u>3.0</u> | <u>2.9</u> |
| <u>3.0% or more but less than 4.0%</u> | <u>5.6</u> | <u>5.4</u> | <u>5.2</u> | <u>5.0</u> | <u>4.8</u> | <u>4.2</u> | <u>3.8</u> | <u>3.4</u> | <u>3.1</u> | <u>3.0</u> | <u>2.9</u> | <u>2.8</u> |
| <u>2.0% or more but less than 3.0%</u> | <u>5.5</u> | <u>5.3</u> | <u>5.1</u> | <u>4.9</u> | <u>4.7</u> | <u>4.1</u> | <u>3.7</u> | <u>3.3</u> | <u>3.0</u> | <u>2.9</u> | <u>2.8</u> | <u>2.7</u> |
| <u>1.0% or more but less than 2.0%</u> | <u>5.4</u> | <u>5.2</u> | <u>5.0</u> | <u>4.8</u> | <u>4.6</u> | <u>4.0</u> | <u>3.6</u> | <u>3.2</u> | <u>2.9</u> | <u>2.8</u> | <u>2.7</u> | <u>2.6</u> |
| <u>Less than 1.0%</u> | <u>5.2</u> | <u>5.0</u> | <u>4.8</u> | <u>4.6</u> | <u>4.4</u> | <u>3.8</u> | <u>3.4</u> | <u>3.0</u> | <u>2.7</u> | <u>2.6</u> | <u>2.5</u> | <u>2.4</u> |

| <u>Network Company's POSITIVE Account Percentage</u> | <u>Size of Fund Index</u> | | | | | | | | | | | |
|--|---------------------------|------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|---------------------|
| | <u>Less than 0%</u> | <u>0% but less than 0.5%</u> | <u>0.5% but less than 1.0%</u> | <u>1.0% but less than 1.5%</u> | <u>1.5% but less than 2.0%</u> | <u>2.0% but less than 2.5%</u> | <u>2.5% but less than 3.0%</u> | <u>3.0% but less than 3.5%</u> | <u>3.5% but less than 4.0%</u> | <u>4.0% but less than 4.5%</u> | <u>4.5% but less than 5.0%</u> | <u>5.0% or more</u> |
| <u>Less than 1.0%</u> | <u>4.1</u> | <u>3.9</u> | <u>3.7</u> | <u>3.5</u> | <u>3.3</u> | <u>2.9</u> | <u>2.5</u> | <u>2.1</u> | <u>1.9</u> | <u>1.8</u> | <u>1.7</u> | <u>1.6</u> |
| <u>1.0% or more but less than 2.0%</u> | <u>4.0</u> | <u>3.8</u> | <u>3.6</u> | <u>3.4</u> | <u>3.2</u> | <u>2.8</u> | <u>2.4</u> | <u>2.0</u> | <u>1.8</u> | <u>1.7</u> | <u>1.6</u> | <u>1.5</u> |

| | | | | | | | | | | | | |
|---|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| <u>2.0% or more but less than 3.0%</u> | <u>3.9</u> | <u>3.7</u> | <u>3.5</u> | <u>3.3</u> | <u>3.1</u> | <u>2.7</u> | <u>2.3</u> | <u>1.9</u> | <u>1.7</u> | <u>1.6</u> | <u>1.5</u> | <u>1.4</u> |
| <u>3.0% or more but less than 4.0%</u> | <u>3.8</u> | <u>3.6</u> | <u>3.4</u> | <u>3.2</u> | <u>3.0</u> | <u>2.6</u> | <u>2.2</u> | <u>1.8</u> | <u>1.6</u> | <u>1.5</u> | <u>1.4</u> | <u>1.3</u> |
| <u>4.0% or more but less than 5.0%</u> | <u>3.7</u> | <u>3.5</u> | <u>3.3</u> | <u>3.1</u> | <u>2.9</u> | <u>2.5</u> | <u>2.1</u> | <u>1.7</u> | <u>1.5</u> | <u>1.4</u> | <u>1.3</u> | <u>1.2</u> |
| <u>5.0% or more but less than 5.5%</u> | <u>3.6</u> | <u>3.4</u> | <u>3.2</u> | <u>3.0</u> | <u>2.8</u> | <u>2.4</u> | <u>2.0</u> | <u>1.6</u> | <u>1.4</u> | <u>1.3</u> | <u>1.2</u> | <u>1.1</u> |
| <u>5.5% or more but less than 5.75%</u> | <u>3.5</u> | <u>3.3</u> | <u>3.1</u> | <u>2.9</u> | <u>2.7</u> | <u>2.3</u> | <u>1.9</u> | <u>1.5</u> | <u>1.3</u> | <u>1.2</u> | <u>1.1</u> | <u>1.0</u> |
| <u>5.75% or more but less than 6.0%</u> | <u>3.4</u> | <u>3.2</u> | <u>3.0</u> | <u>2.8</u> | <u>2.6</u> | <u>2.2</u> | <u>1.8</u> | <u>1.4</u> | <u>1.2</u> | <u>1.1</u> | <u>1.0</u> | <u>0.9</u> |
| <u>6.0% or more but less than 6.25%</u> | <u>3.3</u> | <u>3.1</u> | <u>2.9</u> | <u>2.7</u> | <u>2.5</u> | <u>2.1</u> | <u>1.7</u> | <u>1.3</u> | <u>1.1</u> | <u>1.0</u> | <u>0.9</u> | <u>0.8</u> |
| <u>6.25% or more but less than 6.5%</u> | <u>3.2</u> | <u>3.0</u> | <u>2.8</u> | <u>2.6</u> | <u>2.4</u> | <u>2.0</u> | <u>1.6</u> | <u>1.2</u> | <u>1.0</u> | <u>0.9</u> | <u>0.8</u> | <u>0.7</u> |
| <u>6.5% or more but less than 6.75%</u> | <u>3.1</u> | <u>2.9</u> | <u>2.7</u> | <u>2.5</u> | <u>2.3</u> | <u>1.9</u> | <u>1.5</u> | <u>1.1</u> | <u>0.9</u> | <u>0.8</u> | <u>0.7</u> | <u>0.6</u> |
| <u>6.75% or more but less than 7.0%</u> | <u>3.0</u> | <u>2.8</u> | <u>2.6</u> | <u>2.4</u> | <u>2.2</u> | <u>1.8</u> | <u>1.4</u> | <u>1.0</u> | <u>0.8</u> | <u>0.7</u> | <u>0.6</u> | <u>0.5</u> |
| <u>7.0% or more but less than 7.25%</u> | <u>2.9</u> | <u>2.7</u> | <u>2.5</u> | <u>2.3</u> | <u>2.1</u> | <u>1.7</u> | <u>1.3</u> | <u>0.9</u> | <u>0.7</u> | <u>0.6</u> | <u>0.5</u> | <u>0.4</u> |
| <u>7.25% or more but less than 7.5%</u> | <u>2.8</u> | <u>2.6</u> | <u>2.4</u> | <u>2.2</u> | <u>2.0</u> | <u>1.6</u> | <u>1.2</u> | <u>0.8</u> | <u>0.6</u> | <u>0.5</u> | <u>0.4</u> | <u>0.3</u> |
| <u>7.5% or more but less than 7.75%</u> | <u>2.7</u> | <u>2.5</u> | <u>2.3</u> | <u>2.1</u> | <u>1.9</u> | <u>1.5</u> | <u>1.1</u> | <u>0.7</u> | <u>0.5</u> | <u>0.4</u> | <u>0.3</u> | <u>0.2</u> |
| <u>7.75% or more but less than 8.0%</u> | <u>2.6</u> | <u>2.4</u> | <u>2.2</u> | <u>2.0</u> | <u>1.8</u> | <u>1.4</u> | <u>1.0</u> | <u>0.6</u> | <u>0.4</u> | <u>0.3</u> | <u>0.2</u> | <u>0.1</u> |
| <u>8.0% or more but less than 8.25%</u> | <u>2.5</u> | <u>2.3</u> | <u>2.1</u> | <u>1.9</u> | <u>1.7</u> | <u>1.3</u> | <u>0.9</u> | <u>0.5</u> | <u>0.3</u> | <u>0.2</u> | <u>0.1</u> | <u>0.0</u> |

| | | | | | | | | | | | | |
|---|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| <u>8.25% or more but less than 8.5%</u> | <u>2.4</u> | <u>2.2</u> | <u>2.0</u> | <u>1.8</u> | <u>1.6</u> | <u>1.2</u> | <u>0.8</u> | <u>0.4</u> | <u>0.2</u> | <u>0.1</u> | <u>0.0</u> | <u>0.0</u> |
| <u>8.5% or more but less than 8.75%</u> | <u>2.3</u> | <u>2.1</u> | <u>1.9</u> | <u>1.7</u> | <u>1.5</u> | <u>1.1</u> | <u>0.7</u> | <u>0.3</u> | <u>0.1</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> |
| <u>8.75% or more but less than 9.0%</u> | <u>2.2</u> | <u>2.0</u> | <u>1.8</u> | <u>1.6</u> | <u>1.4</u> | <u>1.0</u> | <u>0.6</u> | <u>0.2</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> |
| <u>9.0% or more but less than 9.25%</u> | <u>2.1</u> | <u>1.9</u> | <u>1.7</u> | <u>1.5</u> | <u>1.3</u> | <u>0.9</u> | <u>0.5</u> | <u>0.1</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> |
| <u>9.25% or more but less than 9.5%</u> | <u>2.0</u> | <u>1.8</u> | <u>1.6</u> | <u>1.4</u> | <u>1.2</u> | <u>0.8</u> | <u>0.4</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> |
| <u>9.5% or more but less than 9.75%</u> | <u>1.9</u> | <u>1.7</u> | <u>1.5</u> | <u>1.3</u> | <u>1.1</u> | <u>0.7</u> | <u>0.3</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> |
| <u>9.75% or more but less than 10.0%</u> | <u>1.8</u> | <u>1.6</u> | <u>1.4</u> | <u>1.2</u> | <u>1.0</u> | <u>0.6</u> | <u>0.2</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> |
| <u>10.0% or more but less than 10.25%</u> | <u>1.7</u> | <u>1.5</u> | <u>1.3</u> | <u>1.1</u> | <u>0.9</u> | <u>0.5</u> | <u>0.1</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> |
| <u>10.25% or more but less than 10.5%</u> | <u>1.6</u> | <u>1.4</u> | <u>1.2</u> | <u>1.0</u> | <u>0.8</u> | <u>0.4</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> |
| <u>10.5% or more but less than 11.0%</u> | <u>1.5</u> | <u>1.3</u> | <u>1.1</u> | <u>0.9</u> | <u>0.7</u> | <u>0.3</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> |
| <u>11.0% or more</u> | <u>0.75</u> | <u>0.65</u> | <u>0.55</u> | <u>0.45</u> | <u>0.35</u> | <u>0.15</u> | <u>0.00</u> | <u>0.00</u> | <u>0.00</u> | <u>0.00</u> | <u>0.00</u> | <u>0.00</u> |

(b) If a qualified network company, with a minimum of seventeen quarters of liability, has a network worker account percentage which is negative on any computation date and the total network worker earnings paid by, or for which payment is facilitated by, the network company in the preceding payment year, is greater than or equal to eighty percent of the previous three payment years' average total network worker earnings paid by, or for which payment is facilitated by, the network company, then such network company's network worker account percentage for the subsequent year shall be improved by two percentage points for purposes of determining the network company's normal rate of contribution. Such adjustment to the network company's network worker account percentage shall be applicable only to the network company's current rate of contribution and the application of such adjustment shall be redetermined annually.

(c). The rate for any network company who is not a qualified network company under the provisions of paragraph f of subdivision one of this section solely because it has not been subject to the coverage of this article during at least the five completed calendar quarters ending on the computation date, or because no compensation was paid to a network worker through the network company's platform during the payment year preceding the computation date, shall be equal to the rate which applies pursuant to paragraph a of this subdivision to a network company who has a positive network worker account percentage of less than one per centum, except that the rate for such network company shall in no event exceed three and four-tenths per centum. The rates established in accordance with the provisions of this subdivision shall apply with respect to network worker earnings paid by, or for which payment is facilitated by, the network company in the four consecutive calendar quarters immediately following the computation date.

(d). Corrections and modifications. Corrections or modifications of the amount of compensation paid by, or for which payment is facilitated by, the network company, experience rating charges, or any other pertinent factor shall not be taken into account for the purpose of a determination or redetermination of the network company's contribution rate, unless such corrections or modifications were established on or before the computation date; except that they shall be taken into account whenever established if the network company filed false reports with intent to defraud or, with respect to compensation, failed to file reports prior to the computation date such that an amount of contributions due from such network company and/or an amount of network worker earnings paid by, or for which payment is facilitated by, the network company was required to be determined by the commissioner pursuant to paragraph c of subdivision seven of section six hundred forty-seven of this article and such corrections or modifications result in a rate higher than the contribution rate determined by the commissioner or, with respect to experience rating charges, if they result from a referee, appeal board, or court decision.

§ 649-a. Subsidiary Contributions. 1. Network companies shall pay a subsidiary contribution based on their rate as specified in the subsidiary contribution schedule as applied to network worker earnings paid by, or for which payment is facilitated by, the network company. The rate of each network company's subsidiary contribution shall be the percentage shown in the column headed by the general account balance as of the computation date and on the same line designating the range of network company network worker account percentages in which an individual network company's network worker account is found.

| <u>Network Company's Account Percentage</u> | <u>General Account Balance (in millions of dollars)</u> | | | | | | | | | | |
|---|---|---|---|--|--|--|--|--|--|--|--------------------------|
| | <u>Less than \$0</u> | <u>\$0 or more but less than \$75</u> | <u>\$75 or more but less than \$150</u> | <u>\$150 or more but less than \$225</u> | <u>\$225 or more but less than \$300</u> | <u>\$300 or more but less than \$375</u> | <u>\$375 or more but less than \$450</u> | <u>\$450 or more but less than \$525</u> | <u>\$525 or more but less than \$600</u> | <u>\$600 or more but less than \$650</u> | <u>\$650 or more</u> |
| <u>Less than 0.0% (Negative)</u> | <u>.925%</u> | <u>.825%</u> | <u>.725%</u> | <u>.625%</u> | <u>.525%</u> | <u>.425%</u> | <u>.325%</u> | <u>.225%</u> | <u>.125%</u> | <u>.025%</u> | <u>.000%</u> |

| | | | | | | | | | | | |
|--|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| <u>0.0% or more but less than 5.5%</u> | <u>.625%</u> | <u>.625%</u> | <u>.625%</u> | <u>.525%</u> | <u>.425%</u> | <u>.325%</u> | <u>.225%</u> | <u>.125%</u> | <u>.025%</u> | <u>.000%</u> | <u>.000%</u> |
| <u>5.5% or more but less than 7.5%</u> | <u>.625%</u> | <u>.625%</u> | <u>.525%</u> | <u>.425%</u> | <u>.325%</u> | <u>.225%</u> | <u>.125%</u> | <u>.025%</u> | <u>.000%</u> | <u>.000%</u> | <u>.000%</u> |
| <u>7.5% or more but less than 9%</u> | <u>.625%</u> | <u>.525%</u> | <u>.425%</u> | <u>.325%</u> | <u>.225%</u> | <u>.125%</u> | <u>.025%</u> | <u>.000%</u> | <u>.000%</u> | <u>.000%</u> | <u>.000%</u> |
| <u>9% or more but less than 10.5%</u> | <u>.525%</u> | <u>.425%</u> | <u>.325%</u> | <u>.225%</u> | <u>.125%</u> | <u>.025%</u> | <u>.000%</u> | <u>.000%</u> | <u>.000%</u> | <u>.000%</u> | <u>.000%</u> |
| <u>10.5% or more</u> | <u>.2625%</u> | <u>.2125%</u> | <u>.1625%</u> | <u>.1125%</u> | <u>.0625%</u> | <u>.0125%</u> | <u>.0000%</u> | <u>.0000%</u> | <u>.0000%</u> | <u>.0000%</u> | <u>.0000%</u> |

2. The subsidiary rate for a network company that is not a qualified network company shall be the highest percentage for those network companies with a positive network company's network worker account percentage.

§ 649-b. Benefits and Claims. 1. Except as otherwise provided in this article, all claims for benefits and all payments for benefits shall be processed and administered separate and apart from, but in the same manner as, unemployment claims and benefits under sections five hundred ninety through six hundred one of the labor law, and in accordance with such regulations as the commissioner may prescribe.

2. Rights to benefits. (a). Entitlement to benefits. A network worker claimant shall be entitled to accumulate effective weeks for the purpose of benefit rights only if he or she has complied with the provisions of this article regarding the filing of a claim, including the filing of a valid original claim; registered as having a total loss of income or a partial loss of income as defined in this article; reported his or her subsequent employment, unemployment, work as a network worker, or other work; and reported for work or otherwise given notice of the continuance of the network worker's total loss of income.

(b). Compensable periods. Benefits shall be paid for each effective week.

(c). Duration. Benefits for a loss of income shall not be paid for more than twenty-six effective weeks in any benefit year.

(d) Benefit rate. (i) Weekly benefit amount. A network claimant's weekly benefit amount shall be one seventy-eighth of the compensation during the three highest calendar quarters of the base period paid by, or for which payment was facilitated by, network companies subject to coverage under this article, provided the network worker claimant has compensation earned in three or all four calendar quarters during the network worker's base period or alternate base period. However, when a network worker claimant has earned compensation in only two calendar quarters in the base period or alternate base period, the network worker claimant's weekly benefit shall be one

fifty-second of the compensation earned in the two quarters paid by, or for which payment was facilitated by, network companies subject to coverage under this article. The weekly benefit amount, so computed, that is not a multiple of one dollar shall be lowered to the next multiple of one dollar. The maximum weekly benefit amount shall be equal to the maximum benefit amount set forth in subdivision five of section five hundred ninety of the labor law.

(ii) In the case of a network worker claimant who is experiencing a total loss of income, the claimant's benefit rate shall be equal to their weekly benefit amount, except that if the sum of all income received by the network claimant from any source in that week and the network claimant's weekly benefit amount exceeds one hundred thirty-three percent of the network claimant's weekly benefit amount, then the benefit paid out shall be reduced by the amount that the sum of all income received by the network claimant from any source in that week and the network claimant's weekly benefit amount exceeds one hundred thirty-three percent of the network claimant's weekly benefit amount.

(iii) In the case of a network worker claimant who is experiencing a partial loss of income, the claimant's benefit rate shall be equal to the claimant's partial benefit amount as defined in this subparagraph. The partial benefit amount shall be one seventy-eighth of the compensation during the three highest calendar quarters of the base period paid by, or for which payment was facilitated by, the network company or network companies from which the network worker lost access. However, when a network worker claimant has earned compensation in only two calendar quarters in the base period or alternate base period, the network worker claimant's partial benefit amount shall be one fifty-second of the compensation earned in both quarters paid by, or for which payment was facilitated by, the network company or network companies from which the network worker lost access. The partial benefit amount, so computed, that is not a multiple of one dollar shall be lowered to the next multiple of one dollar. A network worker claimant shall receive their partial benefit amount for each week in which such individual has a partial loss of income, except that if the sum of all income received by the network claimant from any source in that week and the network claimant's weekly benefit amount exceeds one hundred thirty-three percent of the sum of (A) the network claimant's weekly benefit amount, as defined in subparagraph i, and (B) the network claimant's average remuneration benefit, then the benefit paid out shall be reduced by the amount that the sum of all income received by the network claimant from any source in that week and the network claimant's weekly benefit amount, as defined in subparagraph i, exceeds one hundred thirty-three percent of the sum of (A) the network claimant's weekly benefit amount, as defined in subparagraph i, and (B) the network claimant's average remuneration benefit.

(e). Notification requirement. No effective week shall be counted for any purposes except effective weeks as to which notification has been given in a manner prescribed by the commissioner.

(f). Waiting period. A network worker claimant shall not be entitled to accumulate effective weeks for the purpose of benefit payments until he or she has accumulated a waiting period of one effective week during which the network worker has attempted to gain access to and work on at least one other network company or other gig economy platform.

(g) Eligibility for benefits. (i) Network worker loss of income. Benefits shall be paid only to a network worker claimant who has a total loss of income or a partial loss of income, other than as a result of a major disaster as defined in 20 C.F.R. §§ 625.2 and as otherwise set forth in this article, and who is unable to engage in employment, as defined in sections five hundred eleven and five

hundred twenty-two of the labor law, or in work as a network worker or any other work, for which he or she is reasonably fitted by training and experience. A network worker claimant who is receiving benefits under this article shall not be denied such benefits pursuant to this subparagraph or to subparagraphs ii or iii of this paragraph because of such individual's service on a grand or petit jury of any state or of the United States.

(ii) Availability, capability, and work search. No benefits shall be payable to any network worker claimant who is not capable of working as a network worker, in employment, as defined in section five hundred eleven the labor law, or in other work, or who is not ready, willing and able to work as a network worker, in any employment, or in any other work for which he or she is reasonably fitted by training and experience and who is not actively seeking such employment, other work, or work as a network worker.

(iii) In order to be actively seeking work a claimant must be engaged in systematic and sustained efforts to find work. Such systematic and sustained efforts must include reasonable efforts to gain access to other network company and other gig economy platforms; to reach the same level of compensation earned during the claimant's base period or alternate base period, including without limitation logging on to accessible platforms for a similar amount of time; to search for employment; and otherwise to earn income in an amount equal to the compensation earned during the claimant's base period or alternate base period.

(iv) The commissioner shall promulgate regulations, consistent with subparagraphs i, ii, and iii of this subdivision, defining systematic and sustained efforts to find work and setting standards for the proof of work search efforts. Such regulations shall take into account the need for network worker claimants to provide child care for their child or children. Such regulations shall also provide an efficient process requiring network worker claimants to maintain and provide proof of their work search efforts, which must include a written record of their work search efforts including but not limited to their efforts in compliance with subparagraph iii of this subdivision. Proof of work search efforts must include a written or electronic weekly record of work search activity, including, where available, a weekly itemization of the other network company and other gig economy platforms to which the network worker claimant has gained access or attempted to gain access; the number of weekly hours that the network worker claimant has logged onto such platforms; the weekly number of rides, deliveries, or other service opportunities that the network worker claimant has completed; the percentage of rides, delivery, or other requests accepted; and other information that the commissioner deems relevant. All information in the record must be true, accurate, and verifiable. Whenever possible, supporting documentation, including but not limited to screenshots from the other network company and other gig economy platforms, should be maintained with the work search record. The regulations shall also provide a process whereby the commissioner will maintain an updated and publicly available website containing information about how claimants can obtain work through network companies and other gig economy companies operating in the claimant's county.

(h) Concurrent payments prohibited. No weeks of total loss of income or partial loss of income shall be deemed to occur in any week with respect to which a network worker claimant has received or is seeking unemployment benefits under the unemployment insurance law of New York or any other state or of the United States, or income replacement benefits under the law of any other state that provides for such benefits to network workers, provided that this provision shall not apply if the appropriate agency of such other state or of the United States finally determines that he or she is not entitled to such benefits.

3. Disqualification for benefits. (a) Unless otherwise provided in this section, no weeks of total loss of income or partial loss of income shall be deemed to occur after a network worker claimant's disqualification for any reason enumerated in this section, until the network worker has purged the disqualification. For purposes of this subdivision, the phrase "purged the disqualification" means that the network worker claimant has subsequently worked in employment and earned remuneration at least equal to ten times the network worker's weekly benefit rate or worked as a network worker and earned compensation at least equal to ten times the network worker's weekly benefit rate.

(b) Loss of access due to misconduct. No weeks of total loss of income or partial loss of income shall be deemed to occur after a network worker claimant loses access to a network company's platform as a result of the network worker claimant's misconduct in connection with the network worker's work as a network worker, until the network worker has purged the disqualification. Disqualifying misconduct under this paragraph shall include, without limitation, violations of any written policy reasonably related to serious customer or driver safety concerns, failure to maintain proper licensing or other credentials required to be eligible to work as a RNC driver or DNC courier, failure to complete accepted ride or delivery requests, the commission of a fraud or of an assault of any nature while working as a network worker on any network company's platform, and engagement in reckless, harassing, or threatening behavior, in connection with the network worker claimant's work as a network worker. Deactivation resulting from low customer ratings shall not constitute misconduct.

(c) Criminal acts. No weeks of total loss of income or partial loss of income shall be deemed to occur during a period of twelve months after a network worker claimant's loss of access to a network company's platform as a result of an act constituting a felony in connection with such work, provided the network worker claimant is duly convicted thereof or has signed a statement admitting that the network worker has committed such an act. Determinations regarding a benefit claim may be reviewed at any time. Any benefits paid to a network worker claimant prior to a determination that the network worker claimant has suffered a network worker loss of income as a result of such act shall not be considered to have been accepted by the network worker claimant in good faith. In addition, compensation paid by, or for which payment is facilitated by, the network company to the network worker claimant prior to the network worker claimant's loss of access due to such criminal act may not be utilized for the purpose of establishing entitlement to a subsequent, valid original claim. The provisions of this subdivision shall apply even if the network worker claimant's loss of access as a result of such act has been followed by subsequent work as a network worker or employment as an employee prior to the filing of the network worker's claim.

(d) Customer Safety Concerns. No weeks of total loss of income or partial loss of income shall be deemed to occur during a period of twelve months after a network worker claimant's loss of access to a network company's platform due to any conduct or attempted conduct by the network worker claimant that results in the network worker claimant being included in any list or database compiled by a sharing safety program established by two or more network companies to document sexual misconduct or other serious customer safety concerns raised by the conduct of network company workers, provided that (i) the network worker claimant is duly convicted of a crime arising from such conduct or has signed a statement admitting that he or she has committed such

conduct, (ii) the network worker claimant has failed to timely challenge the network worker's inclusion in such list or database through the grievance or appeal procedures established by the sharing safety program, or (iii) the network worker claimant's inclusion in such list or database has been conclusively and finally determined through the grievance or appeal procedures established by the sharing safety program. Determinations regarding a benefit claim may be reviewed at any time. Any benefits paid to a network worker claimant prior to a determination that the network worker claimant has suffered a total loss of income as a result of such conduct shall not be considered to have been accepted by the network worker claimant in good faith. In addition, compensations paid by, or for which payment is facilitated by, the network company to the network worker claimant prior to the network worker claimant's loss of access due to such conduct may not be utilized for the purpose of establishing entitlement to a subsequent, valid original claim. The provisions of this subdivision shall apply even if the network worker claimant's loss of access as a result of such act has been followed by subsequent work as a network worker or employment as an employee prior to the filing of the network worker's claim.

(e) Failure to meet minimum requirements. No weeks of total loss of income or partial loss of income shall be deemed to occur after a network worker claimant's cessation of work as a network worker or loss of access to a network company's platform as a result of the network worker claimant's voluntary or willful failure to meet the network company's minimum requirements for access to the platform, including the failure to submit any required documentation until the network worker has purged the disqualification. For purposes of this paragraph, the phrase "minimum requirements" means the requirements set by the network company that the network worker claimant must meet in order to have access or continued access to the network company's platform, including but not limited to the network company's minimum requirements regarding motor vehicle standards, motor vehicle registration, driver licensing, insurance, and mobile devices.

(f) Failure to meet state or local requirements. No weeks of total loss of income or partial loss of income shall be deemed to occur after a network worker claimant's cessation of work as a network worker or loss of access to a network company's platform as a result of the network worker claimant's voluntary or willful failure to meet any requirements mandated by the state of New York or any local government applicable to the industry and geographic area in which the network worker claimant performs or performed work as a network worker, including but not limited to the failure to provide proof of a valid license, vehicle registration, insurance, or other required documents.

(g) No weeks of total loss of income or partial loss of income shall be deemed to occur on or after the day on which a network worker claimant, without good cause, refuses to accept an offer of employment as provided in subdivision two of section five hundred ninety-three of the labor law.

(h) No weeks of total loss of income or partial loss of income shall be deemed to occur if a network claimant has not made a good faith effort to obtain other work, including by obtaining additional work on other RNC, DNC, or other gig economy platforms pursuant to paragraph g of subdivision two and regulations issued thereunder.

(i) No weeks of total loss of income or partial loss of income shall be deemed to occur on or after

the day on which a network worker claimant has been deemed disqualified from receiving unemployment benefits on such day pursuant to section five hundred ninety-three of the labor law, regardless of the reason for such disqualification, until he or she has purged the disqualification.

§ 649-c. Benefits for Network Workers After Loss of Work Authorization.

1. Notwithstanding subdivision one of section five hundred ninety of the labor law, a network worker claimant shall not be deemed ineligible for or disqualified from receiving network worker income replacement benefits solely because such network worker claimant is a non-citizen of the United States whose work authorization from the U.S. Citizenship and Immigration Services has lapsed.

2. Benefits under this article to aliens not residents or about to become residents of the United States or Canada, shall be the same in amount as provided for residents, and shall be funded exclusively by the supplemental income replacement fund pursuant to subdivision three of section six hundred forty-five of this article.

3. Requirements relating to availability for work and search for work, as set forth in subparagraph i of paragraph a of subsection twenty-four of section six hundred forty-four and paragraph g of subdivision one of section six hundred forty-nine-b of this article, are not applicable to individuals otherwise eligible for benefits under this section.

§ 649-d. Miscellaneous Provisions. 1. Litigation. The failure by any person to do any act required by or under the provisions of this article shall be deemed an act committed in part at the office of the industrial commissioner in Albany and committed in part in the place where the person resides or has a place for the regular transaction of business. The certificate of the industrial commissioner or deputy industrial commissioner to the effect that contribution has not been paid, that a report has not been filed, or that information has not been supplied, as required by or under the provisions of this article, shall be prima-facie evidence that such contribution has not been paid, that such report has not been filed, or that such information has not been supplied.

2. If any provision of this article or the application thereof to any person or circumstance is held invalid, the remainder of the article and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 12. Subparagraph one of paragraph g of subdivision one of section five hundred eighty one of the labor law is amended to add the words “and all compensation paid to network workers, as those terms are defined in subdivisions five and thirteen of section six hundred forty-four of the labor law,” after the words “all payrolls.” Subparagraph two of paragraph g of subdivision one of section five hundred eighty-one of the labor law is amended to add the words “and all compensation paid to network workers, as those terms are defined in subdivisions five and thirteen of section six hundred forty-four of the labor law,” after the words “all payrolls.”

Section 13. The following section is added to Article 18 of the labor law:

Section 593-a. Work as a network worker. In the event that a claimant for unemployment benefits is not totally unemployed, as defined in section five hundred twenty-two of the labor law, on all seven days in a week due to his or her engagement as a network worker, as defined in Article 18-a of the labor law, the claimant's compensation from his or her work as a network worker shall be credited against his or her weekly benefit rate in accordance with the department's partial unemployment system as administered by the commissioner. A claimant shall not be disqualified for failure to accept particular ride or delivery requests as a network worker so long as the claimant exercises reasonable diligence in attempting to earn compensation as a network worker.

Section 14. The provisions of this act shall be severable and if any phrase, clause, sentence or provision of this article or the applicability thereof to any person or circumstance shall be held invalid, the remainder of this act and the application thereof shall not be affected thereby, except that if either Section 752, Section 753, Section 758, or Section 762 of Article 20-D as added by Section 1 of this act is held invalid, then this entire act shall be held invalid.

Section 15. This act shall take effect on the sixtieth day after it shall become a law. Effective immediately, the addition, amendment, and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.