

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1381
(Representatives Ostlie, Cory, Grueneich, Hagert, Louser, D. Ruby, Satrom)
(Senators Conley, Klein, Larsen, Meyer)

AN ACT to create and enact a new section to chapter 39-34 of the North Dakota Century Code, relating to classifying a transportation network company driver as an independent contractor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-34 of the North Dakota Century Code is created and enacted as follows:

Transportation network company driver - Independent contractor.

1. As used in this section:
 - a. "Transportation network company" means a person that:
 - (1) Maintains a digital network to facilitate services by transportation network company drivers to a person seeking those services; and
 - (2) Accepts requests from the public only through the organization's digital network and not by telephone, facsimile, or in person at a retail location.
 - b. "Transportation network company driver" does not include a person transporting freight, sealed or closed envelopes, boxes, parcels, or other similar sealed or closed containers for compensation. The term means a person that:
 - (1) Enters a written agreement with a transportation network company to use the transportation network company's digital network to connect with an individual seeking services offered by the transportation network company driver;
 - (2) Performs services for a person through a transportation network company's digital network in exchange for compensation or payment; and
 - (3) Does not perform services at a physical business location operated by the transportation network company in the state.
2. A transportation network company driver is an independent contractor and not an employee of a transportation network company if the transportation network company:
 - a. Enters an agreement with the transportation network company driver that the transportation network company driver is an independent contractor and not an employee of the transportation network company.
 - b. Does not unilaterally prescribe specific hours during which the transportation network company driver must be available to accept service requests submitted through the transportation network company's digital network.
 - c. Does not prohibit the transportation network company driver from engaging in outside employment or performing services through other transportation network companies except while the transportation network company driver is engaged in performing services through the transportation network company's digital network.

- d. May not terminate the contract of the transportation network company driver for a driver's refusal to accept a specific transportation service or delivery service request.
- e. Does not prohibit the transportation network company driver from using a vehicle with an internal combustion engine.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1381.

House Vote: Yeas 93 Nays 0 Absent 1

Senate Vote: Yeas 43 Nays 4 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State