Meeting minutes: Governor's Committee on the Compensation, Wellbeing, and Fair Treatment of Transportation Network Company Drivers

Meeting date: **Sept. 26, 2023**
Minutes prepared by: Julie Klejewski
Location: Minnesota Room, Department of Labor and Industry (DLI), 443 Lafayette Road N., St. Paul, MN

Attendance

Members present
1. Eid Ali
2. Marianna Brown
3. Dawit Kassa
4. John Budd
5. Samantha Diaz
6. Steven Huser
7. Dan Meyers
8. Freddi Goldstein
9. Carin Mrotz
10. Majority Leader Rep. Jamie Long
11. Commissioner Nicole Blissenbach (co-chair)
12. Commissioner Grace Arnold (co-chair)
13. Shenika Chambers – online

DLI and Commerce staff members present
Brittany Wysokinski (DLI)
Ryan P. Anderson (DLI)
Hared Mah (DLI)
Josiah Moore (DLI)
Gretchen Longbehn (DLI)
Julie Klejewski (DLI)
Kyle Hart (DLI) – online
Laura Zajac (DLI) – online
Julia Dreier (Commerce) – online
Sara Payne (Commerce) – online

Member absent
Saahil Karpe (Brent Kent presented on behalf of Lyft)

Agenda items

1.   Call to order and roll call

Co-chair Nicole Blissenbach called the meeting to order at 1:02 p.m. and a quorum was present.

2.   Approval of meeting agenda

A motion was made by Steven Huser and seconded by Carin Mrotz to approve the agenda as presented. A vote was taken and the motion passed unanimously.

3. Approval of Sept. 7, 2023 meeting minutes

A motion was made by Dan Meyers and seconded by Marianna Brown to approve the Sept. 7, 2023, meeting minutes as presented. A vote was taken and the motion passed unanimously.

4. Committee updates

Commissioner Blissenbach reminded members that this meeting will be focused on deactivation. Both Uber and Lyft will talk about what their current deactivation landscape looks like and will build out on some of the questions that were raised during the most recent meeting. We will also hear from the driver committee members providing perspective about the current deactivation landscape, as well as hear from other committee members about policies related to deactivation, which are important from their constituencies' perspective.

5. Transportation network company (TNC) driver deactivation presentation

   a. **TNC representative Brent Kent presented on behalf of Lyft. The presentation included the following topics:**
      - deactivation 101;
      - deactivation categories;
      - the user/driver experience; and
      - Washington's protections against wrongful deactivations in HB 2076.
   b. **TNC committee member Freddi Goldstein presented on behalf of Uber. The presentation included the following topics:**
      - platform access;
      - reasons for deactivation;
      - communication with drivers;
      - deactivation appeal and support; and
      - legislative solutions and private agreements.

A copy of the Lyft and Uber deactivation presentations are available at dli.mn.gov/about-department/boards-and-councils/governors-committee-compensation-wellbeing-and-fair-treatment.

The committee members asked questions to the TNC representatives and engaged in discussion as follows.

- Commissioner Blissenbach asked if the TNCs have written policies that outline what leads to a driver being deactivated and, if so, can those policies be shared with the committee. Both TNC representatives responded that they would check on the request and follow up with the committee.
- Brown asked why drivers are still being deactivated for reasons the TNC says they should not be; what happens in real life is different than what is being presented on paper. The TNC representative responded that, unfortunately, mistakes happen and the TNCs agree they need to work to resolve those situations for individuals as quickly as possible.

- Brown said she does not agree that acceptance rates and cancellation rates do not affect deactivations. Lyft's representative responded that the example shared showed it took 52 instances before the driver was deactivated; there were more than 12 incidents of cancellations before the driver received a warning, then 20-plus incidents before a temporary suspension. There is a distinct difference between the two platforms in this area.
- Discussion about drivers using the pin-drop feature to pick up riders: At times the locations are in dark secluded areas and drivers don't feel safe so they cancel and then this will affect their status. Uber said when a driver has accepted an offer and goes to pick up the passenger, at some point before the passenger gets in the car, if the ride is canceled, there is a drop-down menu where the driver can say why and one option is safety. If safety is chosen, that does not count toward the driver's cancellation rate.
- Lyft pointed out Brown's suggestion to include compensation for drivers who were temporarily deactivated, which is recommended for the committee to discuss when moving forward.
- Samantha Diaz asked how often drivers are deactivated for compliance issues, fraud issues or complaints from riders. Lyft indicated safety is the largest category, with more than half. About one-third are compliance-related and less than 10% are related to fraud. Uber indicated that between June 2022 and June 2023, the top five deactivation categories locally were: first – identity or documents; second – fraud; third – quality ratings; fourth – safety rated; and fifth – privacy, meaning the driver has asked to be removed from the platform.
- Diaz asked how long within those three categories drivers are temporarily deactivated before their case is resolved. The TNCs indicated it vastly depends on each case. They try to do it as timely and quickly as possible.
- Could the TNCs provide an average amount of time for each category that a driver would be either wait-listed or deactivated before their case is resolved? The TNCs will check in to this, but also noted that as this group moves forward, there should be discussions about the different types of deactivations in which drivers would qualify for some type of compensation for lost time.
- A difference noted between the two platforms from their presentations was related to cancellations. Lyft didn't include driver ratings in its deactivation because it happens so rarely.
- Huser asked what steps the TNCs take to verify someone's animal qualifies as a service animal. Lyft will investigate and get back to the group. Uber does not take the position of questioning whether the person needs the animal; if a rider indicates the animal is a service animal and needs to bring it with them in the vehicle, Uber believes it is their legal requirement to provide service to the person.
- Eid Ali spoke on behalf of several drivers experiencing deactivation, who were in attendance, and didn't know who to talk to about their issues. Ali asked the TNCs if there is anything they could do to assist with these cases to help the drivers get back to work as soon as possible. They have families to support. The TNCs agreed to work, through Ali, to get the contact information of those drivers and information about their issues, noting this is an opportunity to assist right now; however, this wouldn't be the correct way to do it long term. Uber also has the partnership with the Somali Community Resettlement Services and asked whether that should be a permanent solution or if this committee can make some suggestions about how to improve upon that.

- Mrotz asked about the Somali Community Resettlement Services (SCRS) in Minneapolis and how it is funded. Currently, it is a nonprofit partnership only with Uber and is funded by Uber. This is separate from a driver resource center in Washington. Lyft hopes to announce a similar partnership here in the Twin Cities market before the end of the year.
- Both Uber and Lyft work with the driver resource center in Washington, which was set up through legislation that passed last year and will eventually be funded through a tax on riders. There was conversation during the past session in Minnesota about setting up something similar, where a tax on rideshares would then fund a driver resource center, but that piece fell off. It is something the TNCs would be happy to discuss in this committee and consider as a recommendation for future legislation.
- Meyers, the disability advocate member of the committee, wanted to share that the people his organization serves quite often report drivers will come and, once they see the person, they will drive away with no reason – which is very inconvenient when someone is trying to get to or from work. There are also issues with drivers asking for cash. He made it clear that his organization only works with Lyft; it has not partnered with Uber. He appreciates that when a complaint is filed with Lyft, Lyft will take that driver off their concierge platform, so they won't have access to the people his organization serves. A good deactivation policy and an appeals process is not only good for drivers, but it's good for riders as well.
- Diaz asked in the Uber and SCRS relationship, whether SCRS is responding to issues from the company's perspective? Where is the advocacy on behalf of the driver? Are the conversations between Uber and SCRS happening if there is a consistent issue being raised, with respect to deactivations, or are they responding to issues as they come up? Uber shared that SCRS is modeled off their work with the United Food and Commercial Workers (UFCW) in Canada. It is strictly a case-by-case review of driver deactivation. A driver can present their side of the story and their case; the SCRS has an online platform where the driver enters all of the information (it's a form Uber set up with the SCRS) and it is sent to Uber, which reviews the case and responds to SCRS. SCRS has been granted permission by the driver to receive information about that driver's case. No policy conversations are happening with SCRS; it is strictly a vessel to provide on-the-ground Somali language support for drivers.
- Dawit Kassa commented that not having a clear due process around the application has created a serious safety concern for drivers. Having to balance safety with feeding their families – drivers are afraid to report riders who have harassed or created unsafe conditions, because they do not want to be deactivated. What processes are in place to make the driver feel safe and not have to worry about being deactivated for simply alerting the TNCs with issues? The TNCs encourage drivers to report riders. The company can investigate the history of riders who are on the platform. The TNCs have no motivation to take action against the driver for reporting bad passenger behavior.
- Ali asked Lyft about being deactivated for fraud and gave examples of drivers who left the country for two to four months and, upon returning, tried to log into their account, but forgot their email address, so they tried a different email address and entered their other information, which was correct; however, because of putting in the wrong email address first, they were deactivated as they were considered to be doing something fraudulent. Lyft corrected itself from earlier and stated its deactivations due to fraud are greater than 1%, but it believes the rate is less than 10%. The specifics aren't known about this exact situation, but if it looks like they created duplicate accounts, that is a flag for fraud. Lyft offered to

work with Ali about those issues and provide information to help resolve them, realizing not all drivers will be reactivated.

- Ali asked the TNCs how far back they go when doing a background check, how many years? Both indicated it may be decided by the local regulation; it could be different for the different categories. Both will check further into this and get back to the committee.

- Ali asked whether Lyft has representatives who can answer phone calls when drivers want to call for assistance and support? Lyft will check into this and get back to the committee.

- Huser asked if a minimum number of rides needs to be accumulated for the driver's rating to kick in. Uber indicated drivers start with a 5.0, then over time the average takes over – the average is based on the most recent 500 ratings a driver has received. It will work on getting a clear answer about exactly what it looks like. Lyft needs to check and get back to the committee.

- Question were raised again about compensation for lost wages for the time a driver was deactivated when the TNC identifies the driver has the right to come back and be reactivated. Both TNCs agree this is an important issue that should be discussed further as the committee moves forward.

- Kassa asked how often the TNCs update their platform, because drivers may have to wait idly for five minutes for the rider and gas prices are near $4 a gallon now, versus gas being $1.80 a gallon when the drivers started working for the TNCs. Lyft indicated it has teams making constant updates to the platform and said topics such as drivers earning minimum compensation for mileage and fuel expenses, and lessening the wait time, are all topics this committee should discuss further as part of the recommendations to the Legislature.

Next meeting

Date: **Tuesday, Oct. 17, 2023**
Time: 1 to 3 p.m.
Location: Minnesota Room, Department of Labor and Industry, 443 Lafayette Road N., St. Paul, MN

This meeting will focus on insurance and be co-chaired by Commissioner Grace Arnold. The Department of Commerce team will be presenting.

Note: The Nov. 7 meeting needs to be rescheduled because public meetings cannot be held on general election days. Watch for information about a new meeting date.

DLI is currently working on the data study it is conducting as required by the executive order and hopes to bring findings to the committee in December.

Adjournment

- A motion was made by Commissioner Arnold to adjourn the meeting and seconded by Rep. Jamie Long; a vote was taken and passed unanimously. The meeting was adjourned at 3:02 p.m.