

November 4, 2024

Scott Moss  
Director, Division of Labor Standards and Statistics  
Colorado Department of Labor and Employment  
633 17th Street, Suite 201  
Denver, CO 80202-3660

**Re: Fall Rulemaking 2024 – Implementation of Senate Bill 24-075**  
***Second Submission***

Dear Director Moss:

I write to you on behalf of Rasier, LLC (“Rasier”). Rasier is a licensed Transportation Network Company (“TNC”) and a subsidiary of Uber Technologies, Inc. (“Uber”) that contracts with independent drivers who receive ride requests through the Uber platform. Rasier submits these comments regarding the implementation of the transparency requirements and deactivation and suspension procedures of Senate Bill 24-075 (“SB-75”), codified at Colorado Revised Statutes (C.R.S.) Title 8, Article 4 (2024), C.R.S. § 8-4-127.

Rasier previously submitted comments to the Colorado Department of Labor and Employment (“CDLE”) on September 13, 2024, before publication of the proposed rule (“Pre-rule Comments”).<sup>1</sup> Rasier incorporates and reiterates those comments to the extent that they have not been addressed in CDLE’s draft Statement of Basis, Purpose, Specific Statutory Authority, and Findings (“Draft SBP”).<sup>2</sup>

Nothing herein is intended to be or should be construed as a waiver of any claims or defenses Rasier has related to the underlying law, or any future related enforcement proceeding.

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<sup>1</sup> Rasier, *Fall Rulemaking 2024 – Implementation of Senate Bill 24-075*, [https://cdle.colorado.gov/sites/cdle/files/2024.09.13.Rasier.SB%2075%20Pre-Rule%20Comment\\_Redacted\\_accessible.pdf](https://cdle.colorado.gov/sites/cdle/files/2024.09.13.Rasier.SB%2075%20Pre-Rule%20Comment_Redacted_accessible.pdf) (Sept. 13, 2024).

<sup>2</sup> CDLE, DLSS, *Statement of Basis, Purpose, Specific Statutory Authority, and Findings*, [https://cdle.colorado.gov/sites/cdle/files/proposed\\_data\\_labor\\_rules\\_7\\_ccr\\_1103-19\\_statement\\_of\\_basis\\_and\\_purpose\\_accessible.pdf](https://cdle.colorado.gov/sites/cdle/files/proposed_data_labor_rules_7_ccr_1103-19_statement_of_basis_and_purpose_accessible.pdf) (as accessed on Oct. 31, 2024).

## **Clarification Required**

*C.R.S. § 8-4-127(6)(a)(VI) - TNC payments.*

Rasier seeks clarification at Proposed Rule 6.3.5 as to which calendar quarter will be the first after which TNCs will be required to remit their quarterly shares of the approved annual budget for the certified driver support organization (“DSO”).

The law states: “Upon approving the certified driver support organization's proposed annual budget, the division shall direct each TNC to remit a quarterly share of the certified driver support organization's approved annual budget to the certified driver support organization within fifteen days after the end of each calendar quarter.”<sup>3</sup> However, the law is silent as to which will be the first calendar quarter affected.

- Is this meant to align with October 1, 2025—the start of the certified DSO’s three-year term? In other words, would the first quarterly remittance be due January 15, 2026?
- Is CDLE going to “approve” the proposed annual budget before the certification start date? In other words, would the first quarterly remittance be due October 15, 2025? Or perhaps even as early as July 15, 2025?

Definitive clarity is required so Rasier and others can plan any necessary technical changes for the addition of the per-trip amount to fare calculations. As noted in the Pre-rule Comments, technical changes are not made in a vacuum and require time to implement properly.

Nothing herein is a waiver of any defenses of claims related to the DSO budget and related process, or mandatory remittances, or any other issue related to the DRO.

## **Response to Comments at Rulemaking Hearing**

CDLE has received comments about five suggestions to the proposed rule on which Rasier would like to comment:

1. Comments proposing adding a new rule to require the information shared pursuant to C.R.S. § 8-4-127(11)(c) (“driver receipt”) must be available in PDF

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<sup>3</sup> C.R.S. § 8-4-127(6)(a)(VI).

and downloadable .csv.<sup>4</sup>

2. Comments that TNCs “must offer drivers the ability to download a .csv file containing all required information for each task accepted over at least the previous year (or since the effective date of the relevant provision) by accessing a ‘download’ button in their driver app.”<sup>5</sup>
3. Comments proposing that drivers should be able to elect to receive driver receipt information on a weekly, monthly, or quarterly cadence rather than per task.<sup>6</sup>
4. Comments proposing adding a rule to require each TNC to provide Access Point Interface (“API”) access to a database that each TNC hosts to provide CDLE all of the information required in the semi-annual reports pursuant to C.R.S. § 8-4-127(9) in a machine-readable .csv format.<sup>7</sup>
5. Comments suggesting that a rule be added that “no TNC may dominate or interfere with the formation or administration of any DSO or contribute financial or other support to it as prohibited by Section 8(a)(2) of the National Labor Relations Act as interpreted by the National Labor Relations Board.”<sup>8</sup>

Rasier begins by noting that none of the above is required by SB-75 and incorporation of these suggestions would exceed CDLE’s statutory authority.

Comments 1, 2, and 3 above go far beyond what is required by the law. As Rasier noted in its Pre-rule Comments, “SB-75, as written, provides ample information for drivers to have visibility into their earnings and any rule should avoid placing additional, onerous requirements [on TNCs] that are not contemplated by SB-75.” Moreover, as also noted in Rasier’s Pre-rule Comments, implementing such changes requires complex and resourceintensive technological changes, requiring a significant amount of time. Even if these requirements were lawful, TNCs could not reasonably meet a February 1, 2025 deadline for implementation of these net new requirements.

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<sup>4</sup> Colorado Fiscal Institute, *Comments on Proposed Delivery Network Company and Transportation Network Company Acts (DATA) Labor Rules*, [https://cdle.colorado.gov/sites/cdle/files/cfi\\_data\\_rules\\_accessible.pdf](https://cdle.colorado.gov/sites/cdle/files/cfi_data_rules_accessible.pdf) (Nov. 1, 2024) (“CFI Comments”); Towards Justice, *Comments on Proposed Delivery Network Company and Transportation Network Company Acts (DATA) Labor Rules*, [https://cdle.colorado.gov/sites/cdle/files/2024.10.31\\_tj\\_comments\\_on\\_data\\_rules.pdf](https://cdle.colorado.gov/sites/cdle/files/2024.10.31_tj_comments_on_data_rules.pdf) (Nov. 1, 2024) (“TJ Comments”).

<sup>5</sup> CFI Comments; TJ Comments.

<sup>6</sup> CFI Comments; TJ Comments.

<sup>7</sup> CFI Comments; TJ Comments.

<sup>8</sup> TJ Comments.

Comment 4 above also places an additional burden on TNCs that is in conflict with the law. C.R.S. § 8-4-127(9) requires TNCs to disclose certain information to CDLE, and C.R.S. § 8-4-127(10) requires CDLE to “redact the information to protect drivers’ identities and privacy” when disclosing information pursuant to a Colorado Open Records Act request. The law clearly contemplates the information being provided directly to CDLE and CDLE disclosing consistent with its obligations as a state agency, rather than being hosted by TNCs for “all relevant stakeholders.”

Comment 5 above mischaracterizes the relationship between TNCs and the DSO. Mandates originating from the National Labor Relations Act as interpreted by the National Labor Relations Board are inappropriate outside of a union organizing context. Moreover, it would undermine the model of cooperative relationships that we have formed with similar organizations in states such as Washington and New York. Such cooperation has proven essential for promoting constructive dialogue on drivers' needs, such as access to benefits and safety initiatives.

Prohibiting support or structured engagement could discourage positive developments and make it harder for drivers to access resources, training, and information. The legislation aims to support drivers’ interests in a balanced and flexible manner that accommodates diverse driver needs. Allowing TNCs to engage with DSOs aligns with these goals, fostering a collaborative environment rather than an adversarial one. A constructive relationship between a TNC and a DSO can enhance transparency and ensure responsiveness to drivers’ concerns, as TNCs can provide direct feedback and facilitate support.

### **Expansion of Comments in September Submission**

As noted in its Pre-rule Comments, Rasier appreciates that CDLE has never before regulated an app-based platform in this manner. We take this opportunity to provide additional context about the real-world safety implications of SB-75’s requirements.

The requirements at C.R.S. § 8-4-127(11)(a) and (b) raise specific safety concerns in ways the legislature may not have appreciated at the time the law was passed. The law has explicit requirements as to what information is displayed to drivers and when that information is surfaced. Road safety is paramount to the Uber experience, and we are dedicated to promoting safe behavior for all our users. As part of this, we aim to minimize distraction while still providing critical information that drivers need and want and eliminate noncritical information while in motion.

A driver will almost always be actively operating a motor vehicle when the required information is surfaced. This means a driver may not only be actively driving, but may be

navigating busy streets while picking up and dropping off riders. Taking into account the design requirements at C.R.S. § 8-4-127(11)(e), which are intended to draw the driver's attention to the requisite information, drivers will be required to take their eyes off the road to view, comprehend, and process the information being surfaced to them. Prescribing the precise timing and sequence for information to be presented presents distracted driving concerns and poses safety risks to drivers, riders, and others on the road.

Rasier understands that CDLE is tasked with implementing the law as passed by the legislature and signed by the governor. However, we take this opportunity to notify the agency of the unintended but serious consequences to driver and rider safety that are presented in the law and Rasier urges CDLE to allow flexibility for TNCs on how and when to surface information as long as the requisite information is being disclosed.

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Rasier appreciates your consideration of these comments. Should you have any questions, please contact me at westregs@uber.com.

Sincerely,

/s/ Cerissa Cafasso

Cerissa Cafasso, Senior Counsel  
Rasier, LLC