



November 4, 2024

Division of Labor Standards and Statistics
Colorado Department of Labor & Employment
633 17th Street
Denver, CO 80202-3660

RE: Comments on CDLE Proposed DNC Rules

Dear Director Moss:

On behalf of DoorDash, I am writing to provide comments on proposed rules issued by the Division of Labor Standards and Statistics to implement House Bill 24-1129. We appreciate CDLE's attention to these important issues and are thankful for this opportunity to provide feedback on the proposed rules in order to ensure that any final regulations are feasible and not subject to misinterpretation.

CDLE should clarify proposed disaggregation requirements with respect to C.R.S. § 8-4-126(3)(b)(I)-(II)

C.R.S. § 8-4-126(3)(b)(I)-(II) requires DNCs to provide receipts to workers within 24 hours of a delivery task being completed that shows the amount of compensation from the DNC and the full amount of any consumer tip. If a delivery task involves multiple transactions, proposed Section 5.1.1 of the rules requires that this information be disaggregated by transaction, if available.

While disaggregation of consumer tips on the receipt is possible when a delivery task involves multiple transactions, a similar per-transaction treatment is not possible with respect to compensation from our platform. DoorDash compensation is calculated and offered for each delivery task in its entirety irrespective of whether the task includes one or multiple consumer transactions/deliveries. For example, when a Dasher (workers who use the DoorDash platform to facilitate deliveries) receives a delivery task offer with orders from two customers, there is a fixed amount of compensation offered for completing delivery of both orders separate from tips. Compensation from DoorDash is not broken down on a per delivery or consumer basis.

We are concerned the current language could be interpreted to argue that DNCs should arbitrarily assign some portion of compensation to each delivery in the delivery task. We request that CDLE clarify this language in the final rule or issue guidance clarifying that this type of disaggregation is not required where compensation is offered at the delivery task level rather than on a transaction or delivery basis. For example:

5.1.1 When a DNC makes a disclosure pursuant to C.R.S. § 8-4-126(3)(b)(I)-(II) for a delivery task involving multiple transactions, the DNC shall provide the required amounts disaggregated by transaction, if available. [Disaggregation of compensation from the DNC by transaction is not required if the DNC only offered compensation on a delivery-task basis.](#)

CDLE should clarify proposed requirements related to the consumer safety prompt under C.R.S. § 8-4-126(6)

C.R.S. § 8-4-126(6) requires DNCs to prompt consumers to ensure worker safety upon delivery. Among other things, proposed Section 5.3 of the rules requires that a DNC “prompt each individual consumer at the time that it connects them to a driver.”

We are concerned that this language could be interpreted to impose a temporal requirement on when the prompt must be sent: at the time the driver accepts the delivery task offer (and the connection first occurs). We do not believe this level of specificity is necessary or contemplated by the statute – the ultimate goal of this provision is simply to ensure that each consumer receives a safety prompt. Importantly, this timing is not optimal for most deliveries. The delivery task offer may be accepted an hour or longer prior to the delivery arriving. DoorDash generally sends these types of prompts once the worker has picked up the delivery and begins en route to the consumer. This approach aligns the timing of the prompt when the consumer typically is preparing their residence or location for the delivery’s arrival. We request that CDLE clarify this language as part of the final rule or issue guidance clarifying that specific timing of the prompt is not required as long as the prompt occurs prior to the delivery worker’s arrival. For example:

5.3 Disclosures to consumers. For purposes of the driver safety consumer prompting requirements under C.R.S. § 8-4-126(6):
(A) A DNC is considered to connect a driver to a consumer when a driver accepts a delivery task.
(B) If a delivery task includes transactions involving more than one consumer, a DNC must prompt each individual consumer ~~at the time that it connects them to a driver.~~
(C) [A DNC must prompt each individual consumer prior to the driver arriving at the consumer’s location.](#)

CDLE should reject requests to add new data requirements that are not contemplated or authorized by C.R.S. § 8-4-126

Some stakeholders at the October 30 hearing on the proposed rules recommend that CDLE mandate via rule that DNCs maintain a database of extensive information with ongoing API access by CDLE and the public. Additionally, some stakeholders recommended that CDLE mandate that different disclosures required to be made under the statute be made in multiple different file formats.

As an initial matter, these proposals (some of which were debated and rejected as part of the legislative process) are not authorized by the statute and, if adopted, would represent an impermissible expansion of the law. Additionally, in practice, it’s unclear how these proposals could be implemented – such an approach would impose significant engineering burdens that would make compliance with law by January 1, 2025 impossible to achieve.

We urge CDLE to reject these proposals and avoid legislating new requirements via the rulemaking process.

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Thank you for the opportunity to provide comments as CDLE undertakes this rulemaking and for your consideration of these requests.

Sincerely,

Anna Powell
Senior Manager, Colorado Government Relations
DoorDash