



Colorado Division of Labor Standards and Statistics
633 17th Street, Denver, Colorado 80202

October 31, 2024

On behalf of Grubhub Holdings Inc. ("Grubhub"), I am writing to provide comments concerning House Bill 24-1129 (the "Rules") issued by the Colorado Division of Labor Standards and Statistics ("the Division").

We are working diligently to comply with the Rules. We appreciate the Division's partnership and attention to these important issues. We are thankful for this opportunity to provide feedback on the Rules in order to ensure that any final regulations do not result in adverse impacts to Colorado's drivers, consumers, restaurants, and other local businesses.

Please find our comments on the Rules below.

Opportunities to Improve the Proposed Rules

Concern: Section 8-4-126(3)(e)(I) of the Rules requires a Delivery Network Company ("DNC") to disclose to drivers the total number of miles traveled to complete each delivery task through the DNC during the calendar quarter or, alternatively, requires a DNC to disclose the total number of miles traveled during the calendar month.

We believe that it would be more beneficial for drivers if DNCs disclose to drivers the total number of miles traveled to complete delivery tasks through the DNC on a calendar year-to-date basis. This will make it easier for drivers who intend to submit mileage for tax purposes to do so at the end of the year without having to make any additional calculations. If the IRS changes the applicable mileage rate during the calendar year, we could provide the miles traveled applicable to each specific rate.

Recommendation: We recommend that 8-4-126(3) be amended to allow a DNC to disclose to drivers the total number of miles traveled to complete each delivery task through the DNC on a calendar year-to-date basis.

Proposed Revision:

8-4-126(3)(e)(I) A DNC SHALL:

(A) WITHIN THIRTY DAYS AFTER THE END OF EACH CALENDAR QUARTER,
PROVIDE TO EACH DRIVER, BY E-MAIL OR THROUGH THE DIGITAL PLATFORM,

A DISCLOSURE IDENTIFYING AT LEAST THE TOTAL NUMBER OF MILES TRAVELED TO COMPLETE EACH DELIVERY TASK THROUGH THE DNC DURING THE CALENDAR QUARTER AND THE IRS MILEAGE RATE APPLICABLE FOR THE CALENDAR QUARTER; OR

(B) WITHIN THIRTY DAYS AFTER THE END OF EACH CALENDAR MONTH, PROVIDE TO EACH DRIVER, BY E-MAIL OR THROUGH THE DIGITAL PLATFORM, A DISCLOSURE IDENTIFYING AT LEAST THE TOTAL NUMBER OF MILES TRAVELED TO COMPLETE EACH DELIVERY TASK THROUGH THE DNC DURING THE CALENDAR MONTH AND THE IRS MILEAGE RATE APPLICABLE FOR THE CALENDAR MONTH; **OR**

(C) EVERY THIRTY DAYS, PROVIDE TO EACH DRIVER, BY EMAIL OR THROUGH THE DIGITAL PLATFORM, A DISCLOSURE IDENTIFYING THE TOTAL NUMBER OF MILES TRAVELED TO COMPLETE EACH DELIVERY TASK THROUGH THE DNC DURING THE CALENDAR YEAR AND THE IRS MILEAGE RATE APPLICABLE FOR THE CALENDAR YEAR. IF THE IRS MILEAGE RATE CHANGES DURING THE CALENDAR YEAR, PROVIDE THE TOTAL NUMBER OF MILES TRAVELED APPLICABLE TO EACH CORRESPONDING RATE.

Concern: Section 8-4-126(3)(a)(III) of the Rules requires that each time a DNC offers a delivery task to a driver, the DNC must disclose to the driver the address or addresses where the food, beverage, or other goods must be picked up, which must be (i) prominently displayed on the screen or in the email; (ii) in a font that is at least one and one-half times larger than the font used to present any other information on the screen or in the email; and (iii) presented using design techniques intended to draw the eye to the information.

On the offer screen for drivers, we disclose the address where the food, beverages, or other goods must be *delivered*, in addition to the address where they must be picked up. Both the pickup and dropoff addresses are important for a driver to know before accepting a delivery request. Yet, the Rules as written require DNCs to *only* display the pickup address, *and* in a specific format that would require DNCs to either shrink down the delivery address or unnecessarily enlarge only the pickup address. This will have the unintended effect of a driver being more aware of the pickup address, but at the direct expense of the driver being aware of the dropoff address.

Recommendation: We recommend that 8-4-126(3)(a)(III) be amended to include the dropoff address.

Proposed Revision:

8-4-126(3)(a)(III) THE ADDRESS OR ADDRESSES WHERE THE FOOD, BEVERAGES, OR OTHER GOODS MUST BE PICKED UP **AND DROPPED OFF**.

Concern: Section 8-4-126(3)(a)(IV) of the Rules requires that each time a DNC offers a delivery task to a driver, the DNC must disclose to the driver the cardinal and intercardinal direction from where the driver is required to pick up the food, beverages, or other goods to the locations where the food, beverages, or other goods must be delivered, which must be (i) prominently displayed on the screen or in the email; (ii) in a font that is at least one and one-half times larger than the font used to present any other information on the screen or in the email; and (iii) presented using design techniques intended to draw the eye to the information.

On the offer screen for drivers, we disclose pins on a map representing the locations of the driver, and of any pickup and dropoff location. We also disclose both the pickup and dropoff addresses. The requirement to also display the cardinal and intercardinal directions seems redundant, and potentially detracts from the useful information that is already provided to drivers. Because the Rules require this information to be prominently displayed in a larger font than any other information in the offer, it may cause confusion and take away from some of the other useful information presented to drivers with the offer.

In addition, many of the orders facilitated through the Grubhub platform are bundled together. For instance, a driver can accept a delivery request with multiple pickups and multiple dropoffs. In that instance, on the offer screen for drivers, we disclose to the driver pins on a map representing the locations of the driver and each of the pickup and dropoff locations.

Based on the pickup and dropoff locations of the two respective orders, the driver may be prompted to drive to the first pickup location and then the second pickup location before driving to the first dropoff location and then the second dropoff location. In that instance, the cardinal and intercardinal direction from the pickup location to the dropoff location for both deliveries would not benefit the driver, as the driver's next stop from either pickup location would be different from the applicable dropoff location. In those instances, that information would detract from more useful navigation information that is already provided.

Recommendation: We recommend that 8-4-126(3)(a)(IV) be removed from the Rules. In the alternative, we recommend the below proposed revision.

Proposed Revision:

8-4-126(3)(a)(IV) THE CARDINAL AND INTERCARDINAL DIRECTION FROM WHERE THE DRIVER IS REQUIRED TO PICK UP THE FOOD, BEVERAGES, OR OTHER GOODS TO THE LOCATIONS WHERE THE FOOD, BEVERAGES, OR OTHER GOODS MUST BE DELIVERED, **OR OTHERWISE DISPLAY THE LOCATIONS OF THE PICKUP AND DROPOFF LOCATIONS TO THE DRIVER FOR EACH TASK.**

Thank you for the opportunity to provide comments on the Rules and for your consideration of these recommendations.

Sincerely,

Brian Hendricks
Counsel

JR Starrett
Director, State and Local Government Affairs