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# Uber Pays \$100M in Driver Misclassification Case with NJ Department of Labor and Workforce Development and Attorney General's Office

## FOR IMMEDIATE RELEASE

September 13, 2022

**TRENTON** – Uber Technologies Inc. and a subsidiary have submitted a \$100 million payment to the New Jersey Department of Labor and Workforce Development's (NJDOL's) Unemployment Trust Fund after an audit found the ride-share companies improperly classified hundreds of thousands of drivers as independent contractors, depriving them of crucial safety-net benefits such as unemployment, temporary disability and family leave insurance, and failed to make required contributions toward unemployment, temporary disability and workforce development.

The payment follows NJDOL audits that assessed Uber and its subsidiary Rasier LLC a combined \$78 million in past-due contributions plus penalties and interest of \$22 million. It is the largest such payment ever received in New Jersey, covering 297,866 drivers.

"For over a century, our governors, legislatures and voters have made New Jersey one of the best states for workers. We will not bow to the whims of corporations' latest business models that are based on eroding long-standing protections," said Labor Commissioner Robert Asaro-Angelo. "Our policies protect and empower workers while strengthening businesses and the Murphy Administration has given us the tools to protect our workforce and keep all employers accountable."

"These companies often repeat the false premise that being an employee stifles flexibility, which is just not true," Asaro-Angelo added. "Let's be clear: there is no reason temporary, or on-demand workers who work flexible hours, or even minutes at a time can't be treated like other employees in New Jersey or any other state."

"We will not tolerate companies that misclassify their workers, thereby denying employees vital benefits and dodging their obligation to contribute to programs that benefit the workforce," said Acting Attorney General Platkin. "By misclassifying workers, companies both harm their employees and sidestep their obligations under the law. New Jersey will continue to enforce our employee misclassification laws aggressively to prevent such conduct. As the economy changes, we will vigorously defend workers' rights."

New Jersey's rigorous enforcement of employee classification laws protects workers and law-abiding employers alike, because misclassification extracts a financial toll on both good actor employers and misclassified workers who shoulder additional risk and financial responsibility. When a worker is misclassified as an independent contractor they lose the rights that employees are entitled to including minimum wage, overtime pay, workers' compensation coverage, unemployment insurance, earned sick leave, family leave or other benefits. They are not protected by workplace safety laws, equal pay protections and a host of other employment-related rights we so often take for granted. Employers who misclassify workers as independent contractors skip their contributions to the UI trust fund, leaving every other employer in the state to pay for their delinquency.

Per federal standards, New Jersey and every other state is required to audit one percent of businesses each year for compliance with unemployment insurance contribution requirements. Additionally, the Department may audit a company if a complaint is filed, or if workers seek unemployment or disability benefits and there is no record of their employer having contributed to those benefit funds.

In the audit of Uber and Rasier, NJDOL examined the companies' books over a five-year period, 2014-2018. They were originally assessed a combined \$523 million in past-due contributions plus penalties and interest of up to \$119 million, but those figures were rough estimates based on incomplete data, as allowed by law, because the companies did not cooperate and share their complete payroll records during the audit. The companies contested the Department's findings,



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and the case was transferred to New Jersey's Office of Administrative Law. The companies have now paid a revised assessment of \$100 million – based on additional information from Uber and Rasier, which was more complete and more accurate than the initial data provided.

All contributions, penalties and interest received are returned to the funds used to pay worker benefits, and to cover related expenses of administering and protecting the trust fund for all NJ workers and employers.

Three years ago, as part of his platform to build a stronger, fairer economy, Gov. Murphy signed a package of bills expanding NJDOL's authority to combat worker misclassification. More recently, the Legislature and Governor Murphy again expanded the agency's powers by allowing it to impose a penalty requiring employers to pay misclassified workers an additional 5 percent of their gross wages from the previous 12 months.

"New Jersey has established itself as a national leader in fighting worker misclassification, as we've demonstrated through our gold-standard ABC Test. This simple, three-pronged standard, which determines whether a worker should be classified as an employee or an independent contractor, has been affirmed by multiple court rulings, including by the New Jersey Supreme Court just weeks ago," NJDOL Commissioner Asaro-Angelo said.

Several members of the NJDOL and OAG staff deserve kudos for their work on this case and for achieving this outcome: Ron Marino, Assistant Commissioner for Income Security; Mindy Gensler, NJDOL's legal liaison; Evelyn Rivera, Director of Employer Accounts; and Auditors Chris Pfeffer and David Menist. The Department was represented in this matter by the Office of the Attorney General's Division of Law, including Assistant Attorney General Mayur P. Saxena, and Deputy Attorneys General Peter A. Basso, LaToya L. Barrett, Mary E. Kenah, John-Paul Proctor and former Deputy Attorney General Micauri Vargas.

This historical case should serve as a reminder to employers and workers that New Jersey laws applies to anyone doing business and working in New Jersey.

Misclassified workers are not at fault and can find information about their rights and protections here: [myworkrights.nj.gov](https://myworkrights.nj.gov).

Businesses can learn about legal requirements and services provided to them at: [nj.gov/labor](https://nj.gov/labor).

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