



SEATTLE CITY COUNCIL

Legislative Summary

CB 119427

Record No.: CB 119427

Type: Ordinance (Ord)

Status: Passed

Version: 2

Ord. no: Ord 125752

In Control: City Clerk

File Created: 11/29/2018

Final Action: 01/11/2019

Title: AN ORDINANCE relating to the regulation of the for-hire industry; removing certain considerations between an exclusive driver representative and the Director of Finance and Administrative Services; amending Section 6.310.735 of the Seattle Municipal Code; and repealing rules and regulations to the extent they are inconsistent with this ordinance.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Harrell, O'Brien

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments:

Drafter: Emilia.Sanchez@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published:

Yes

No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Clerk	11/29/2018	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office						
	Notes:						
1	Council President's Office	11/29/2018	sent for review	Governance, Equity, and Technology Committee			
	Action Text: The Council Bill (CB) was sent for review. to the Governance, Equity, and Technology Committee						
	Notes:						
1	City Council	12/03/2018	referred	Governance, Equity, and Technology Committee			

CITY OF SEATTLE

ORDINANCE 125752

COUNCIL BILL 119427

AN ORDINANCE relating to the regulation of the for-hire industry; removing certain considerations between an exclusive driver representative and the Director of Finance and Administrative Services; amending Section 6.310.735 of the Seattle Municipal Code; and repealing rules and regulations to the extent they are inconsistent with this ordinance.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 6.310.735 of the Seattle Municipal Code, last amended by Ordinance 125132, is amended as follows:

6.310.735 Exclusive driver representatives

* * *

H.

1. Upon certification of the EDR by the Director, the driver coordinator and the EDR shall meet and negotiate in good faith certain subjects to be specified in rules or regulations promulgated by the Director, including, but not limited to, best practices regarding vehicle equipment standards; safe driving practices; the manner in which the driver coordinator will conduct criminal background checks of all prospective drivers; ~~((the nature and amount of payments to be made by, or withheld from, the driver coordinator to or by the drivers;))~~ minimum hours of work, conditions of work, and applicable rules. The subjects to be specified in rules or regulations promulgated by the Director shall not include the nature or amount of payments to be made by, or withheld from, a driver coordinator to or by its drivers. If the driver coordinator and the EDR reach agreement on terms, their agreement shall be reduced to a written agreement. The term of such an agreement shall be agreed upon by the EDR and the driver coordinator, but in no case shall the term of such an agreement exceed four years.

1 2. After reaching agreement, the parties shall transmit the written agreement to the
2 Director. The Director shall review the agreement for compliance with the provisions of this
3 Chapter 6.310, and to ensure that the substance of the agreement promotes the provision of safe,
4 reliable, and economical for-hire transportation services and otherwise advance the public policy
5 goals set forth in Chapter 6.310 and in the Preamble to and Section 1 of (~~the ordinance~~
6 ~~introduced as C.B. 118499~~) Ordinance 124968. In conducting that review, the record shall not
7 be limited to the submissions of the EDR and driver coordinator nor to the terms of the proposed
8 agreement. The Director shall have the right to gather and consider any necessary additional
9 evidence, including by conducting public hearings and requesting additional information from
10 the EDR and driver coordinator. Following this review, the Director shall notify the parties of the
11 determination in writing, and shall include in the notification a written explanation of all
12 conclusions. Absent good cause, the Director shall issue the determination of compliance within
13 60 days of the receipt of an agreement.

14 a. If the Director finds the agreement compliant, the agreement is final and
15 binding on all parties.

16 b. If the Director finds it fails to comply, the Director shall remand it to
17 the parties with a written explanation of the failure(s) and, at the Director's discretion,
18 recommendations to remedy the failure(s).

19 c. The agreement shall not go into effect until the Director affirmatively
20 determines its adherence to the provisions of this Chapter 6.310 and that the agreement furthers
21 the provision of safe, reliable, and economical for-hire transportation services and the public
22 policy goals set forth in the Preamble to and Section 1 of (~~the ordinance introduced as C.B.~~
23 ~~118499~~) Ordinance 124968.

1 3. Unless the EDR has been decertified pursuant to subsection 6.310.735.L or has
2 lost its designation as a QDR, the EDR and the driver coordinator shall, at least 90 days before
3 the expiration of an existing agreement approved pursuant to subsections 6.310.735.H.2.c or
4 6.310.735.I.4.c, meet to negotiate a successor agreement. Any such agreement shall be subject to
5 approval by the Director pursuant to subsection 6.310.735.H.2. If the parties are unable to reach
6 agreement on a successor agreement within 90 days after the expiration of an existing agreement,
7 either party must submit to interest arbitration upon the request of the other pursuant to
8 subsection 6.310.735.I, and the interest arbitrator's proposed successor agreement shall be
9 subject to review by the Director pursuant to subsections 6.310.735.I.3 and 6.310.735.I.4.

10 4. Nothing in this (~~section~~) Section 6.310.735 shall require or preclude a driver
11 coordinator from making an agreement with an EDR to require membership of for-hire drivers in
12 the EDR's entity/organization within 14 days of being hired, contracted with, or partnered with
13 by the driver coordinator to provide for-hire transportation services to the public.

14 I. If a driver coordinator and the EDR fail to reach an agreement within 90 days of the
15 certification of the EDR by the Director, either party must submit to interest arbitration upon the
16 request of the other.

17 1. The interest arbitrator may be selected by mutual agreement of the parties. If
18 the parties cannot agree, then the arbitrator shall be determined as follows: from a list of seven
19 arbitrators with experience in labor disputes and/or interest arbitration designated by the
20 American Arbitration Association, the party requesting arbitration shall strike a name. Thereafter
21 the other party shall strike a name. The process will continue until one name remains, who shall
22 be the arbitrator. The cost of the interest arbitration shall be divided equally between the parties.

1 2. The interest arbitrator shall propose the most fair and reasonable agreement
2 concerning subjects specified in rules or regulations promulgated by the Director as set forth in
3 subsection 6.310.735.H.1 that furthers the provision of safe, reliable, and economical for-hire
4 transportation services and the public policy goals set forth in the Preamble to and Section 1 of
5 ~~((the ordinance introduced as C.B. 118499))~~ Ordinance 124968. The term of any agreement
6 proposed by the interest arbitrator shall not exceed two years. In proposing that agreement, the
7 interest arbitrator shall consider the following criteria:

- 8 a. Any stipulations of the parties;
- 9 b. The cost of expenses incurred by drivers (e.g., fuel, wear and tear on
10 vehicles, and insurance);
- 11 c. ~~((Comparison of the amount and/or proportion of revenue received from
12 customers by the driver coordinators and the income provided to or retained by the drivers))~~ The
13 safety and equipment standards and rules applicable to other persons, whether employees or
14 independent contractors, employed as for-hire or taxicab drivers in Seattle and its environs, as
15 well as other comparably sized urban areas;
- 16 d. The ~~((wages;))~~ hours~~((;))~~ and conditions of employment of other
17 persons, whether employees or independent contractors, employed as for-hire or taxicab drivers
18 in Seattle and its environs, as well as other comparably sized urban areas;
- 19 e. If raised by the driver coordinator, the driver coordinator's financial
20 condition and need to ensure a reasonable return on investment and/or profit;
- 21 f. Any other factors that are normally or traditionally taken into
22 consideration in the determination of ~~((wages;))~~ hours, safety and equipment standards, rules,
23 and conditions of employment; and

1 g. The City's interest in promoting the provision of safe, reliable, and
2 economical for-hire transportation services and otherwise advancing the public policy goals set
3 forth in Chapter 6.310 and in the Preamble to and Section 1 of (~~the ordinance introduced as C.B.~~
4 ~~118499~~) Ordinance 124968.

5 3. The arbitrator shall transmit the proposed agreement to the Director for review
6 in accordance with the procedures and standards set forth in subsection 6.310.735.H.2. With the
7 proposed agreement, the arbitrator shall transmit a report that sets forth the basis for the
8 arbitrator's resolution of any disputed issues. The Director shall review the agreement as
9 provided in subsection 6.310.735.H.2.

10 4. In addition to the review provided for in subsection 6.310.735.I.3, a driver
11 coordinator or EDR may challenge the proposed agreement on the following grounds: that the
12 interest arbitrator was biased, that the interest arbitrator exceeded the authority granted by
13 subsection 6.310.735.H and this subsection 6.310.735.I, and/or that a provision of the proposed
14 agreement is arbitrary and capricious. In the event of such a challenge, the Director will provide
15 notice to the driver coordinator and the EDR, allow the driver coordinator and the EDR the
16 opportunity to be heard, and make a determination as to whether any of the challenges asserted
17 should be sustained.

18 a. If the Director finds the agreement fulfills the requirements of
19 subsection 6.310.735.H.2, and that no challenges raised under this subsection 6.310.735.I.4
20 should be sustained, the Director will provide written notice of that finding to the parties and the
21 agreement will be deemed final and binding on all parties.

22 b. If the Director finds that the agreement fails to fulfill the requirements
23 of subsection 6.310.735.H.2, or that any challenge asserted under this subsection 6.310.735.I.4

1 should be sustained, the Director shall remand the agreement to the interest arbitrator with a
2 written explanation of the failure(s) and, at the Director's discretion, recommendations to remedy
3 the failure(s).

4 c. The agreement shall not go into effect until the Director affirmatively
5 deems the agreement final and binding pursuant to subsections 6.310.735.I.3 and 6.310.735.I.4.a.

6 d. A driver coordinator or EDR may obtain judicial review of the
7 Director's final determination rendered pursuant to this subsection 6.310.735.I.4 by applying for
8 a Writ of Review in the King County Superior Court within 14 days from the date of the
9 Director's determination, in accordance with the procedure set forth in ((Chapter)) chapter 7.16
10 RCW, other applicable law, and court rules. The Director's final determination shall not be
11 stayed pending judicial review unless a stay is ordered by the court. If review is not sought in
12 compliance with this subsection 6.310.735.I.4.d, the determination of the Director shall be final
13 and conclusive.

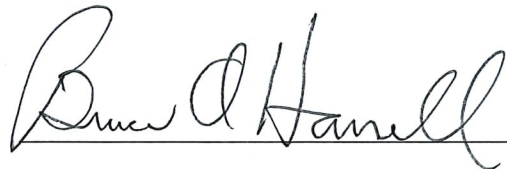
14 5. If either party refuses to enter interest arbitration, upon the request of the other,
15 either party may pursue all available judicial remedies.

16 * * *

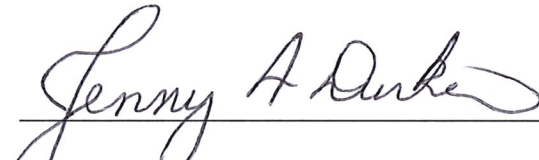
17 Section 2. Any rules or regulations of The City of Seattle inconsistent with the provisions
18 of this ordinance are superseded to the extent they are inconsistent.
19

1 Section 3. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

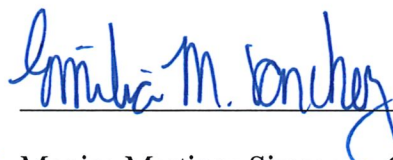
4 Passed by the City Council the 7th day of January, 2019,
5 and signed by me in open session in authentication of its passage this 7th day of
6 January, 2019.

7 
8 President _____ of the City Council

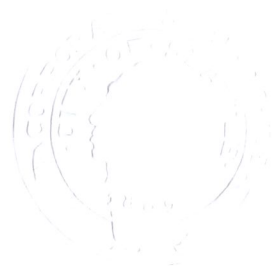
9 Approved by me this 11th day of JANUARY, 2019.

10 
11 Jenny A. Durkan, Mayor

12 Filed by me this 11th day of January, 2019.

13 
14 for Monica Martinez Simmons, City Clerk

15 (Seal)



SUMMARY and FISCAL NOTE*

Department:	Dept. Contact/Phone:	CBO Contact/Phone:

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to the regulation of the for-hire industry; removing certain considerations between an exclusive driver representative and the Director of Finance and Administrative Services; amending Section 6.310.735 of the Seattle Municipal Code; and repealing rules and regulations to the extent they are inconsistent with this ordinance.

Summary and background of the Legislation: The proposed ordinance amends the current Seattle Municipal Code in several ways. First, it amends subsection 6.310.735.H to: (1) remove as a subject of bargaining the nature and amount of payment received by or withheld from drivers; (2) expressly prohibit the Director of Finance and Administrative Services from including the same in any rule or regulation as a subject of negotiation; and (3) to the extent interest arbitration is necessary, removes from consideration by the arbitrator a comparison of payments to similarly-situated drivers in Seattle and elsewhere. Second, it makes several technical corrections. Third, through Section 2, it expressly states any rule or regulation of The City of Seattle that is inconsistent with the proposed ordinance is superseded.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? ___ Yes ___ No

If yes, please fill out the table below and attach a new (if creating a project) or marked-up (if amending) CIP Page to the Council Bill. Please include the spending plan as part of the attached CIP Page. If no, please delete the table.

Project Name:	Project I.D.:	Project Location:	Start Date:	End Date:	Total Project Cost Through 2023:

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? ___ Yes ___ No

If there are no changes to appropriations, revenues, or positions, please delete the table below.

Appropriation change (\$):	General Fund \$		Other \$	
	2019	2020	2019	2020
Estimated revenue change (\$):	Revenue to General Fund		Revenue to Other Funds	
	2019	2020	2019	2020

Positions affected:	No. of Positions		Total FTE Change	
	2019	2020	2019	2020

Does the legislation have other financial impacts to the City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

If so, describe the nature of the impacts. This could include increased operating and maintenance costs, for example.

Is there financial cost or other impacts of *not* implementing the legislation?

Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs or consequences.

If there are no changes to appropriations, revenues, or positions, please delete sections 3.d., 3.e., and 3.f. and answer the questions in Section 4.

3.d. Appropriations

This legislation adds, changes, or deletes appropriations.

If this box is checked, please complete this section. If this box is not checked, please proceed to Revenues/Reimbursements.

Fund Name and number	Dept	Budget Control Level Name/##*	2019 Appropriation Change	2020 Estimated Appropriation Change
TOTAL				

*See budget book to obtain the appropriate Budget Control Level for your department.

This table should reflect appropriations that are a direct result of this legislation. In the event that the project/programs associated with this ordinance had, or will have, appropriations in other legislation please provide details in the Appropriation Notes section below. If the appropriation is not completely supported by revenue/reimbursements listed below, please identify the funding source (e.g. available fund balance) to cover this appropriation in the notes section. Also indicate if the legislation changes appropriations one-time, ongoing, or both.

Is this change one-time or ongoing?

Please explain any complicated scenarios – e.g. three-year funding agreement but not permanent ongoing.

Appropriations Notes:

3.e. Revenues/Reimbursements

This legislation adds, changes, or deletes revenues or reimbursements.

If this box is checked, please complete this section. If this box is not checked, please proceed to Positions.

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Dept	Revenue Source	2019 Revenue	2020 Estimated Revenue
TOTAL				

This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below. Do the revenue sources have match requirements? If so, what are they?

Is this change one-time or ongoing?

Please explain any complicated scenarios – e.g. three-year funding agreement but not permanent ongoing.

Revenue/Reimbursement Notes:

3.f. Positions

This legislation adds, changes, or deletes positions.

If this box is checked, please complete this section. If this box is not checked, please proceed to Other Implications.

Total Regular Positions Created, Modified, or Abrogated through this Legislation, Including FTE Impact:

Position # for Existing Positions	Position Title & Department*	Fund Name & #	Program & BCL	PT/FT	2019 Positions	2019 FTE	Does it sunset? (If yes, explain below in Position Notes)
TOTAL							

* List each position separately

This table should only reflect the actual number of positions created by this legislation. In the event that positions have been, or will be, created as a result of previous or future legislation or budget actions, please provide details in the Notes section below.

Position Notes:

4. OTHER IMPLICATIONS

a. Does this legislation affect any departments besides the originating department?

If so, please list the affected department(s) and the nature of the impact (financial, operational, etc.).

b. Is a public hearing required for this legislation?

If yes, what public hearing(s) have been held to date, and/or what public hearing(s) are planned/required in the future?

c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?

If yes, please describe the measures taken to comply with RCW 64.06.080.

d. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

For example, legislation related to sale of surplus property, condemnation, or certain capital projects with private partners may require publication of notice. If you aren't sure, please check with your lawyer. If publication of notice is required, describe any steps taken to comply with that requirement.

e. Does this legislation affect a piece of property?

If yes, and if a map or other visual representation of the property is not already included as an exhibit or attachment to the legislation itself, then you must include a map and/or other visual representation of the property and its location as an attachment to the fiscal note. Place a note on the map attached to the fiscal note that indicates the map is intended for illustrative or informational purposes only and is not intended to modify anything in the legislation.

f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities?

If yes, please explain how this legislation may impact vulnerable or historically disadvantaged communities. Using the racial equity toolkit is one way to help determine the legislation's impact on certain communities.

g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s).

This answer should highlight measurable outputs and outcomes.

List attachments/exhibits below: