

Amendment 2c Version 3 to CB 120580 App-Based Worker Deactivation Rights Ordinance

Sponsor: Councilmember Pedersen

Broaden definition of “egregious misconduct.”

Effect: This amendment would broaden the definition of “egregious misconduct” as follows:

1. Add to the definition:
 - a. Actions or behaviors that endanger the physical safety of the network company or an animal;
 - b. Actions or behaviors that are threatening, harassing, or abusive to the customer, a third party, or the network company;
 - c. Other specific criminal offenses (e.g., kidnapping, money laundering, cybercrimes);
 - d. Racial slurs;
 - e. Animal cruelty; and
 - f. Other conduct that would constitute a Class A felony offense under Title 9 or 9A RCW as amended.
2. Require network company to prove that the conduct directly relates to the app-based worker’s fitness to provide services or use of the platform by “preponderance of the evidence, a lower standard than “clear and convincing evidence.”

The amendment would include significantly more types of conduct in the definition of “egregious misconduct” and would lower the evidentiary standard for showing that this conduct directly relates to the app-based worker’s fitness to provide services or use the platform.

For allegations of “egregious misconduct,” network companies may deactivate an app-based worker before completing an investigation and may provide notice of the deactivation on the effective date of such action (rather than 14 days prior to the date of such action). The network company would then have ten days to complete the investigation except in case of extraordinary circumstances.

Amend Section 2 of CB 120580 as follows:

8.40.020 Definitions

For purposes of this Chapter 8.40:

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“Egregious misconduct” means an action or behavior by an individual app-based worker that: (1) endangers the physical safety of the customer, ~~((or))~~ a third person, the network company, or an animal; or (2) intentionally causes economic harm to the customer, a third person, or the network company; or (3) is threatening, harassing, or abusive to the customer, a third party, or the network company. “Egregious misconduct” includes but is not limited to conduct that occurs outside of an app-based worker’s provision of app-based services or use of the network company’s worker platform if the network company can prove ~~((by clear and convincing evidence))~~ by a preponderance of the evidence that the conduct directly relates to the app-based worker’s fitness to provide app-based services or to use the network company’s worker platform. “Egregious misconduct” includes but is not limited to the following conduct in connection with an app-based worker’s provision of app-based services or use of the network company’s worker platform: assault, sexual assault, sexual harassment, communicating with a minor for immoral purposes, sexual conduct as defined in RCW 7.105.010 as amended, unlawful harassment as defined in RCW 7.105.010 as amended, hate crimes, racial slurs, unlawful imprisonment as defined in RCW 9A.40.040 as amended, kidnapping, unlawful possession of a firearm, solicitation of any sexual act, registration as a sex offender, stalking, theft, fraud, robbery, burglary, money laundering, animal cruelty, cybercrimes as defined in chapter 9A.90 RCW as amended, prostitution, reckless driving, ~~((or))~~ driving under the influence of alcohol or drugs, ~~((and))~~ and failing to maintain a valid state driver’s license, and other conduct that would constitute a Class A felony offense under Title 9 or 9A RCW as amended. The Director may issue rules further defining what constitutes economic harm or egregious misconduct.