

Budget Deliberations – October 18, 2019

## **TRANSPORTATION NETWORK COMPANIES**

### **Worker Protections for TNC Drivers**

Staff: Karina Bull, Analyst

As part of budget deliberations, Council will consider a suite of proposals related to Transportation Network Companies (TNCs), including a reduction in TNC fees, a new tax, a spending plan, an ordinance related to a minimum compensation standard for drivers and an ordinance establishing driver deactivation rights.

This memo discusses two of the five pieces of proposed legislation related to worker protections for TNC drivers: the TNC Driver Minimum Compensation Ordinance (Attachment 1) and the TNC Driver Deactivation Rights Ordinance (Attachment 2). The discussion includes background on the relevant driver issues; an overview of the proposed legislation; and issue identification and policy options for the Council's consideration. The other three pieces of legislation concerning the TNC Fee Reduction, the TNC Tax, and the Spending Resolution are addressed in a separate memo written by Amy Gore.

#### **I. TNC Driver Minimum Compensation Ordinance**

##### **Background**

TNC business models rely on TNC drivers being classified as independent contractors who are not subject to local, state and federal workplace protections, including Seattle's minimum wage and ancillary benefits such as worker's compensation, sick leave, and unemployment insurance. The proposed legislation would address some of these gaps by requiring (1) an evaluation process to develop a minimum compensation standard for TNC drivers, and (2) future legislation to propose implementation of a minimum compensation standard.

##### **• Evaluation process**

The Department of Finance and Administrative Services (FAS) would coordinate with the Office of Labor Standards (OLS) to complete an evaluation by March 31, 2020 to inform their recommendation of a minimum compensation standard for TNC drivers. The evaluation would include stakeholder engagement, consideration of multiple data sources, and assessment of 12 or more areas of evaluation. The Executive states that FAS plans to contract with an academic or policy organization for part of the study and partner with the Department of Neighborhoods for outreach and engagement.

The recommended minimum compensation standard would provide at least the equivalent of Seattle's hourly minimum wage for Schedule 1 employers (*i.e.*, large employers with more than 500 employees worldwide) plus an additional hourly amount for reasonable expenses. In calculating this standard, FAS could consider payment for the available time, dispatch platform time, and passenger platform time associated with a TNC ride. FAS also could consider range of

mileage (e.g., vehicle expenses) and non-mileage costs (e.g., payroll taxes, business license fees, worker benefits) to account for reasonable expenses.

- **Future legislation**

The Mayor would transmit legislation no later than May 1, 2020 to propose implementation of the minimum compensation standard.

## **Issue Identification**

### **1. Areas of evaluation**

The proposed legislation would include a baseline of 12 possible areas of evaluation for determining a minimum compensation standard. The 12 areas would not include the impact of TNC fees, such as service fees, commissions, cancellation fees on TNC driver earnings. Identifying TNC fees as an area of evaluation could support a more comprehensive development of a minimum compensation standard.

#### **Options:**

- A. Amend the proposal to include evaluation of TNC fee impacts on TNC driver earnings.
- B. Pass the Mayor's proposal as transmitted.

### **2. Technical issue**

The proposed legislation would not include a definition for "dispatch platform time," a term that is defined in the TNC Driver Deactivation Rights Ordinance. This is a technical issue that could be addressed in a separate amendment or substitute bill.

#### **Options:**

- A. Amend the proposal (page 5, line 13) to include the same definition of "dispatch platform time" that is included in the TNC Driver Deactivation Rights Ordinance.  
"Dispatch platform time" means the time a TNC driver spends traveling from dispatch location to passenger pick-up location. Dispatch time ends when a passenger cancels a trip, fails to appear for a trip, or enters the TNC driver's vehicle.
- B. Pass the Mayor's proposal as transmitted.

## **II. TNC Driver Deactivation Rights Ordinance**

### **Background**

Both Uber and Lyft, the two largest TNCs operating in the City, require TNC drivers to agree to terms that mandate resolution of any dispute with the TNC by individual arbitration, thereby waiving the driver's right to resolve disputes in a court of law. The proposed legislation would establish a separate, voluntary arbitration process for TNC drivers to challenge disputes over deactivation. The process would include (1) deactivation rights for TNC drivers, (2) a Deactivation Appeals Panel to conduct arbitration proceedings, and (3) a Driver Resolution Center to represent TNC drivers at arbitration proceedings and to conduct outreach. OLS would implement the legislation and issue rules.

- Deactivation Rights**

The legislation would establish the following rights for TNC drivers:

- TNC drivers would not be subject to unwarranted deactivation;
- TNC drivers would be provided written notices before activation and upon deactivation;
- TNC drivers would have the right to challenge all permanent and temporary deactivations, subject to eligibility standards;
- TNC drivers would have the right to representation during any deactivation challenge, including representation by an advocate from the Driver Resolution Center free of charge.

- Deactivation Appeals Panel Arbitration**

The legislation would establish a voluntary, Deactivation Appeals Panel arbitration (Panel arbitration) proceeding for deactivation challenges. TNCs and TNC drivers could use the Panel arbitration, by mutual agreement, instead of a proceeding under any applicable private arbitration agreement.

The Panel arbitration would include a neutral arbitrator, contracted by the City, and an equal number of partisan panel members representing the interests of the TNC and TNC driver. The Panel's decision would be final and binding upon the parties and could include legal and equitable relief for the TNC driver, such as liquidated damages (*e.g.*, double the amount of compensation owed to the TNC driver) and reinstatement.

- Driver Resolution Center**

The legislation would authorize OLS to contract with a non-profit organization to establish a Driver Resolution Center that would provide a range of services for TNC drivers, including outreach, consultation, and direct representation for deactivation challenges. The legislation would require the Driver Resolution Center to be affiliated with an organization that has experience representing workers in grievance proceedings and whose administration or formation is not funded, excessively influenced or controlled by a TNC.

## **Issue identification**

### **1. Rulemaking**

The proposed legislation would give the OLS Director the authority to issue rules on the following areas:

- The definition of unwarranted deactivation;
- Driver eligibility to challenge deactivations;
- Pre-hearing procedures, as well as evidentiary hearings;
- The selection of and criteria for the neutral arbitrator and partisan panel members; and
- The number of partisan panel members.

The legislation does not establish parameters to guide the Director's rulemaking. Establishing parameters for one or more of these areas could provide a more structured framework for rulemaking and signal the Council's intent.

For example, when considering the definition of an "unwarranted deactivation," the Director may consider information from the TNCs, TNC drivers, and other stakeholders.

According to public information posted by [Uber](#) and [Lyft](#), a TNC driver's failure to meet community guidelines can result in deactivation. Actions that constitute failure to meet community guidelines include, but are not limited to:

- Discriminating against another member of the community by refusing to provide services based on any characteristic protected by law;
- Carrying firearms;
- Driving under the influence of drugs or alcohol;
- Fraudulent activity, such as deliberately increasing the time or distance of a trip for fraudulent purposes;
- Unsafe driving;
- Background check failure; and
- Consistently low ratings ([e.g.](#), Lyft states that average ratings below 4.6 for the last 100 rides can put a driver at risk of deactivation).

According to the Executive, some TNC drivers, TNC driver advocates, and researchers report that the following deactivations are particularly problematic:

- TNC drivers are deactivated due to an accident, but the TNC driver was not at fault;
- Clerical errors in TNC records ([e.g.](#), incorrect driver's license expiration date when the TNC driver's license is still valid);
- Errors in TNC background checks ([e.g.](#), reliance on expunged convictions, old convictions);

- Low passenger ratings or passenger complaints for unjustified reasons (e.g., TNC driver asks passenger to leave the vehicle due to inappropriate behavior, such as intoxication, violent or harassing behavior; TNC driver cancels a ride after declining passenger request to put five people in a car with only four passenger seats/seatbelts).

Parameters for rulemaking on unwarranted deactivations could include a process that requires or prioritizes transparency, inclusion and language access for TNC drivers with limited English proficiency; consideration of just cause standards (e.g., neglect of duty, dishonesty, theft and fraud, misconduct, incompetence), evidence-based criteria, fair treatment, transparency, consistency and/or other principles.

**Options:**

- A. Amend the proposal to establish parameters for one or more identified areas for OLS Director rules.
- B. Pass the Mayor's proposal as transmitted.

**2. Criteria for TNC driver representation**

The proposed legislation would establish the right for a TNC driver to elect a representative, including an advocate from the Driver Resolution Center, for any deactivation challenge. Whether the Driver Resolution Center would agree to represent a TNC driver is subject to the Driver Resolution Center's discretion. The legislation is silent on how the Driver Resolution Center would determine whether to represent a TNC driver. Establishing criteria for this determination and/or adding the development of such criteria to OLS Director rulemaking could provide more uniformity and accountability to the process.

**Options:**

- A. Amend the proposal to require Director's rules on criteria for the Driver Resolution Center's discretion to determine to represent a TNC driver in a deactivation challenge.
- B. Amend the proposal to establish parameters for a rulemaking process under A.
- C. Amend the proposal to include a combination of A and B.
- D. Pass the Mayor's proposal as transmitted.

**3. Notice of impending deactivation**

The proposed legislation would require the TNC to provide TNC drivers with two types of written notices: (a) 14 days' notice of an impending deactivation, and (b) notice upon deactivation. The legislation is silent on the required content of the notice of an impending deactivation. However, the notice upon deactivation would include a statement of reasons for the deactivation, the effective date, and the right to challenge such deactivation through a Panel arbitration. Requiring the same type of information for both notices could provide TNC drivers with more opportunity to seek assistance from the Driver Resolution Center, resulting in a faster, more efficient Panel arbitration process.

**Options:**

- A. Amend the proposal to require the same information for both the notice of impending deactivation and the notice upon deactivation.
- B. Pass the Mayor's proposal as transmitted.

**4. Partisan panel member**

The proposed legislation would establish a Deactivation Appeals Panel (Panel) with one neutral arbitrator and an equal number of partisan panel members representing the interests of the TNC driver and TNC, respectively. The partisan panel members would not be compensated by the City.

The term "partisan panel member" is not defined in the legislation. The Executive has stated that the partisan panel members would function as decision-making representatives of the TNC and TNC driver. However, the legislation indicates that the partisan panel member is an arbitrator, "The Panel's decision in any case shall be by majority vote, with each *arbitrator* holding one vote." See proposed legislation, SMC 14.32.050(D)(6) emphasis added. Distinctions between the roles of a partisan representative and arbitrator could impact the Panel arbitration process and cost – especially if the cost of paying for 1.5 arbitrators would deter a TNC from choosing the Panel arbitration. Further definition of the partisan panel member could clarify implementation of the Panel arbitration process.

**Options:**

- A. Amend the proposal to define "partisan panel member."
- B. Amend the proposal to require OLS Director's rules to define "partisan panel member."
- C. Amend the proposal to remove the word, "arbitrator," in SMC 14.22.050(D)(6)
  - i. "The Panel's decision in any case shall be by majority vote, with each ~~arbitrator~~ panel member holding one vote."
- D. Amend the proposal to some combination of A, B, or C.
- E. Pass the Mayor's proposal as transmitted.

**5. Cost of arbitration**

The proposed legislation would condition the TNC's participation in the Panel arbitration on either half or full payment of the cost of the neutral arbitrator. The TNC would pay for half the cost of a neutral arbitrator if the TNC driver is represented by the Driver Resolution Center, or the full cost of a neutral arbitrator if the TNC driver is not represented by the Driver Resolution Center.

There is no clear incentive for the TNC to participate in the Panel arbitration when it is required to pay for the full cost of the neutral arbitrator. To create a stronger incentive for TNCs to engage in Panel arbitrations, the Council may want to consider limiting the TNC's payment to half the cost of the neutral arbitrator, regardless of whether the TNC Driver is represented by the Driver Resolution Center. Notably, mitigating the TNC's cost for Panel arbitrations could incur additional expenses for the Driver Resolution Center.

**Options:**

- A. Amend the proposal to require the TNC to pay for half the cost of neutral arbitrator, regardless of whether the TNC driver is represented by the Driver Resolution Center.
- B. Amend the proposal to require OLS Director's rules to determine the TNC's payment for the cost of the neutral arbitrator if the TNC driver is not represented by the Driver Resolution Center.
- C. Pass the Mayor's proposal as transmitted.

**6. Effective date**

The proposed legislation, if adopted by Council, would go into effect on July 1, 2020. By this date, the Executive estimates that OLS will have issued a Request for Proposals for the Driver Resolution Center, completed rulemaking, and be close to establishing the Deactivation Appeals Panel. Given the work necessary for implementing this legislation, the proposed effective date could be challenging.

First, the effective date may not allow enough time for TNCs to comply with OLS Director's rules. Both the legislation and the rules would go into effect around the same time. Second, the effective date of the TNC driver's rights might precede the establishment of the Driver Resolution Center. Under the legislation, TNC drivers would have rights to a Panel arbitration and representation by the Driver Resolution Center. If these rights go into effect on July 1, 2020, and the Driver Resolution Center is not fully established, the TNC drivers would have legal rights but scant means for accessing benefits or protections.

To allow more time to prepare for implementation, the Council may want to consider delaying the effective date of the legislation.

**Options:**

- A. Amend the proposal to delay the effective date (e.g., October 1, 2020, January 1, 2021).
- B. Pass the Mayor's proposal as transmitted.

## **7. Technical issues**

The proposed legislation has technical issues that could be addressed in separate amendments or a substitute bill.

### **Options:**

- A. Amend the proposal (page 1, line 21) to strike incorrect language in the recitals.  
“WHEREAS, in 2018, the two largest TNCs accounted for over 24 million trips in the City  
~~and King County~~; and
- B. Amend the proposal (page 14, line 3) to remove duplicate language and revise accordingly.  
“~~For a first any~~ violation of this Chapter 14.32, the Panel may assess liquidated damages in an additional amount of up to twice the unpaid compensation.  
~~1. For subsequent violations of this Chapter 14.32, the Panel may assess an amount of liquidated damages in an additional amount of up to twice the unpaid compensation.”~~
- C. Amend the proposal to include a combination of A and B.
- D. Pass the Mayor’s proposal as transmitted.

### **Actions Proposed by Councilmembers as of October 10, 2019**

No Councilmembers proposed actions as of October 10, 2019.

### **Attachments:**

1. OLS TNC Driver Minimum Compensation Ordinance
2. OLS TNC Driver Deactivation Rights Ordinance

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**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

**COUNCIL BILL \_\_\_\_\_**

..title

AN ORDINANCE relating to transportation network company driver labor standards; concerning minimum compensation standards for transportation network company drivers; and adding a new Chapter 14.31 to the Seattle Municipal Code.

..body

WHEREAS, the Washington Constitution provides in Article XI, Section 11 that “[a]ny county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws”; and

WHEREAS, the state of Washington, in Revised Code of Washington (RCW) 46.72.001, has authorized political subdivisions of the state to regulate for-hire drivers and for-hire transportation services, which terms encompass the regulation of transportation network company (TNC) drivers, TNCs, and TNC services, to ensure safe and reliable TNC services; and

WHEREAS, TNCs provide application dispatch services that allow passengers to directly request the dispatch of drivers via the internet using mobile interfaces such as smartphone applications; and

WHEREAS, in 2018, the two largest TNCs accounted for over 24 million trips in the City; and

WHEREAS, at their peak in 2012, taxicabs in Seattle and King County provided about 5.2 million trips; and

WHEREAS, these two companies are also major hiring entities, accounting for most of the 31,676 TNC drivers issued permits by King County in 2018 as recorded by the King County Department of Licensing; and

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1 WHEREAS, the City, TNC drivers, TNCs, and the public agree that TNC drivers should be  
2 compensated fairly and earn at least the equivalent of the “hourly minimum wage”  
3 established for Schedule 1 employers in Chapter 14.19 plus reasonable expenses; and  
4 WHEREAS, the establishment of a minimum compensation standard better ensures that drivers  
5 can perform their services in a safe and reliable manner and thereby promotes the welfare  
6 of the people and is thus a fundamental governmental function; and  
7 WHEREAS, the establishment of a minimum compensation standard for TNC drivers is a  
8 subject of vital and imminent concern to the people of this City and requires appropriate  
9 action by City Council to establish a minimum compensation standard within the City;

10 NOW, THEREFORE,

11 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

12       Section 1. Findings

13       A. In order to protect the public health, safety, and welfare, The City of Seattle is granted  
14 express authority to regulate for-hire transportation services pursuant to chapter 46.72 RCW.  
15 This authority includes regulating entry, requiring a license, controlling rates, establishing safety  
16 requirements, and any other requirement to ensure safe and reliable transportation services.

17       B. In the pursuit of economic opportunity, many transportation network company (TNC)  
18 drivers are immigrants and people of color who have taken on debt or invested their savings to  
19 purchase and/or lease vehicles to provide TNC services.

20       C. Studies around the nation, including a 2018 study commissioned by the New York  
21 City Taxi and Limousine Commission (NYC TLC) entitled *An Earnings Standard for New York*  
22 *City’s App-based Drivers: Economic Analysis and Policy Assessment* and a 2018 nationwide  
23 study by the Economic Policy Institute entitled *Uber and the Labor Market: Uber Drivers’*

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1      *Compensation, Wages, and the Scale of Uber and the Gig Economy* (Economic Policy Institute  
2      Study), have shown that many TNC drivers earn below the equivalent of the hourly minimum  
3      wage rate established by Chapter 14.19 of the Seattle Municipal Code for Schedule 1 employers.

4            D. A 2018 JP Morgan Chase Institute study entitled *The Online Platform Economy in*  
5      2018 reported a decrease in TNC driver earnings nationwide between 2013 and 2017, a 2019  
6      Seattle Times report showed a decrease in the percentage of the passenger fares collected by the  
7      companies that drivers are paid, and Uber Technology, Inc.’s April 2019 Form S-1 filing with  
8      the Securities and Exchange Commission states “we aim to reduce Driver incentives to improve  
9      our financial performance.”

10         E. The TNCs represent that their business models rely on TNC drivers being classified as  
11      independent contractors and that they are exempt from minimum labor standards established by  
12      federal, state, and local law.

13         F. TNC drivers receive unpredictable income due to the high variability of the rates of  
14      compensation paid by TNCs.

15         G. The City of New York recently enacted an ordinance authorizing the NYC TLC to  
16      study and set minimum driver pay, as well as transparency and data reporting standards, and the  
17      NYC TLC promulgated rules establishing such standards.

18         H. There is a lack of localized research regarding TNC driver pay, working conditions,  
19      reasonable expenses, and work hours.

20         I. Establishing a minimum compensation standard will help ensure that the compensation  
21      that thousands of drivers who provide vital transportation services in Seattle every day receive  
22      for their services is sufficient to alleviate undue financial pressure to provide transportation in an  
23      unsafe manner by working longer hours than is safe, skipping needed breaks, or operating

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1 vehicles at unsafe speeds in order to maximize the number of trips completed or to ignore  
2 maintenance necessary to the safe and reliable operation of their vehicles.

3 J. TNC drivers who have the protection of a minimum compensation standard will be  
4 more likely to remain in their positions over time, and to devote more time to their work as TNC  
5 drivers. Such experienced drivers will improve the safety and reliability of the TNC services  
6 provided by the TNCs to passengers and thus reduce safety and reliability problems created by  
7 frequent turnover in the TNC services industry.

8 Section 2. A new Chapter 14.31 is added to the Seattle Municipal Code as follows:

**9 CHAPTER 14.31 TRANSPORTATION NETWORK COMPANY DRIVERS MINIMUM  
10 COMPENSATION**

**11 14.31.010 Short title**

12 This Chapter 14.31 shall constitute the “Transportation Network Company Driver Minimum  
13 Compensation Ordinance” and may be cited as such.

**14 14.31.015 Declaration of policy**

15 It is declared to be the policy of the City, in the exercise of its police powers for the protection of  
16 the public health, safety, and general welfare, and for the maintenance of peace and good  
17 government, to ensure that TNC drivers can perform their services in a safe and reliable manner  
18 by establishing minimum labor standards for the benefit of TNC drivers, including, but not  
19 limited to a minimum compensation standard for TNC drivers that is comprised of at least the  
20 equivalent of the “hourly minimum wage” established for Schedule 1 employers in Chapter  
21 14.19 plus reasonable expenses.

**22 14.31.020 Definitions**

23 For the purposes of this Chapter 14.31:

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1       “Agency” means the Department of Finance and Administrative Services and any  
2 division therein;

3       “Application dispatch” means technology that allows consumers to directly request  
4 dispatch of TNC drivers for trips and/or allows TNC drivers or TNCs to accept trip requests and  
5 payments for trips via the internet using mobile interfaces such as, but not limited to, smartphone  
6 and tablet applications;

7       “Available platform time” means the time a TNC driver is logged in to the driver  
8 platform prior to receiving a trip request from a TNC;

9       “City” means the City of Seattle;

10      “Compensation” means payment owed to a TNC driver by reason of providing TNC  
11 services;

12      “Director” means the Director of the Department of Finance and Administrative Services;

13      “Driver platform” means the driver-facing application dispatch system software or any  
14 online-enabled application service, website, or system, used by a TNC driver, that enables the  
15 prearrangement of passenger trips for compensation;

16      “Operating in Seattle” means, with respect to a TNC, providing application dispatch  
17 services to any affiliated driver at any time for the transport of any passenger for compensation  
18 from or to a point within the geographical confines of the City;

19      “Passenger platform time” means the period of time commencing when a passenger  
20 enters the TNC driver’s vehicle until the time when the passenger exits the TNC driver’s vehicle;

21      “Reasonable expenses” means (1) the per mile cost of operating a vehicle for purposes of  
22 providing TNC services as determined by the Agency’s evaluation pursuant to Section 14.31.060  
23 and (2) the non-mileage expenses incurred by TNC drivers to provide TNC services as

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1 determined by the Agency's evaluation pursuant to Section 14.31.060, which may include, but  
2 are not limited to:

- 3       1. The amount of employer-side payroll taxes that TNC drivers must pay;
- 4       2. Business license fees that TNC drivers must pay;
- 5       3. Compensation for meal periods and rest breaks;
- 6       4. Compensation for paid sick and safe time;
- 7       5. Cost of worker's compensation insurance;
- 8       6. Cost of unemployment insurance;
- 9       7. Cost of paid family medical leave insurance; and
- 10      8. Cost of medical, dental, and vision insurance;

11           “TNC services” means services related to the transportation of passengers that are  
12 provided by a TNC driver while logged in to the driver platform, including services provided  
13 during available platform time, dispatch platform time, and passenger platform time;

14           “Transportation network company” or “TNC” means an organization whether a  
15 corporation, partnership, sole proprietor, or other form, licensed or required to be licensed under  
16 Chapter 6.310, operating in Seattle that offers prearranged transportation services for  
17 compensation using an online-enabled application or platform, such as an application dispatch  
18 system, to connect passengers with drivers using a “transportation network company (TNC)  
19 endorsed vehicle,” as defined in Chapter 6.310;

20           “Transportation network company driver” or “TNC driver” means a licensed for-hire  
21 driver, as defined in Chapter 6.310, affiliated with and accepting trips from a licensed  
22 transportation network company;

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1        “TNC dispatched trip” or “trip” means the dispatch of a TNC driver to provide  
2 transportation to a passenger in a TNC endorsed vehicle through the use of a TNC’s application  
3 dispatch system.

4        **14.31.030 TNC driver coverage**

5        A TNC driver is covered by this Chapter 14.31 if the TNC driver provides TNC services within  
6 the geographic boundaries of the City for a TNC covered by this Chapter 14.31.

7        **14.31.040 TNC coverage**

8            A. TNCs that report greater than 1,000,000 trips that originate in the City per the most  
9 recent quarterly report under Section 6.310.540 are covered under this Chapter 14.31.

10          B. Separate entities that form an integrated enterprise shall be considered a single TNC  
11 under this Chapter 14.31. Separate entities will be considered an integrated enterprise and a  
12 single TNC under this Chapter 14.31 where a separate entity controls the operation of another  
13 entity. The factors to consider include, but are not limited to:

- 14            1. Degree of interrelation between the operations of multiple entities;
- 15            2. Degree to which the entities share common management;
- 16            3. Centralized control of labor relations; and
- 17            4. Degree of common ownership or financial control over the entities.

18        **14.31.050 Minimum compensation**

19        Following the completion of the evaluation by the Agency required in subsection 14.31.060.A  
20 and upon the effective date of the ordinance referenced in 14.31.060.E, TNCs shall pay TNC  
21 drivers a minimum compensation standard that is comprised of at least the equivalent of the  
22 “hourly minimum wage” established for Schedule 1 employers in Chapter 14.19 plus reasonable  
23 expenses.

**14.31.060 Evaluation of TNC driver minimum compensation**

2           A. The Agency, in coordination with the Office of Labor Standards, shall conduct an  
3 evaluation to determine a minimum compensation standard for TNC drivers that is comprised of  
4 at least the equivalent of the “hourly minimum wage” established for Schedule 1 employers in  
5 Chapter 14.19 plus reasonable expenses. The Agency is authorized to consider a minimum  
6 compensation standard that provides compensation for available platform time, dispatch platform  
7 time, passenger platform time, and reasonable expenses.

8           B. In conducting its evaluation, the Agency shall consider the best available sources of  
9 data, which may include, but are not limited to: TNC driver surveys or interviews, data provided  
10 by TNCs, data provided by TNC drivers, data provided by passengers, data from other  
11 jurisdictions, data available through academic, policy, or community based organizations, public  
12 forums, academic research, and stakeholder interviews. The Agency shall coordinate with the  
13 Office of Labor Standards to determine the best available sources of data as well as to conduct  
14 outreach with and elicit input from relevant stakeholders. Areas of evaluation may include, but  
15 are not limited to:

- 16           1. The “hourly minimum wage” established for Schedule 1 employers in Chapter  
17 14.19;
- 18           2. The number of TNC drivers who provide TNC services for more than one TNC  
19 and the frequency with which TNC drivers are available to provide TNC services for more than  
20 one TNC at the same time;
- 21           3. The average and mean number of trips per hour driven by TNC drivers;
- 22           4. The average and mean number of pick-ups per hour completed by TNC drivers;

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- 1               5. The average and mean amount of available platform time, dispatch platform  
2 time, and passenger platform time for TNC drivers;
- 3               6. The average and mean mileage driven by TNC drivers during available  
4 platform time, dispatch platform time, and passenger platform;
- 5               7. The average and mean mileage driven by TNC drivers in a TNC endorsed  
6 vehicle for personal purposes;
- 7               8. The average and mean number of hours driven by TNC drivers each week;
- 8               9. Incentives for TNCs to reduce available platform time;
- 9               10. The impact of TNC drivers providing shared or pooled trips on TNC driver  
10 earnings, work hours, or working conditions under any proposed minimum compensation  
11 standard;
- 12              11. The reasonable expenses incurred by TNC drivers to provide TNC services,  
13 including non-mileage expenses and mileage expenses. Mileage expenses may include, but are  
14 not limited to:
  - 15              a. Depreciation;
  - 16              b. Lease payments;
  - 17              c. Maintenance and repairs;
  - 18              d. Tires;
  - 19              e. Gasoline (including all taxes thereon);
  - 20              f. Oil;
  - 21              g. Insurance; and
  - 22              h. License and vehicle registration fees; and

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12. The impacts of any proposed minimum compensation standard on TNCs,

TNC passengers, and TNC drivers, including TNC driver earnings and work hours.

C. In conjunction with its evaluation, the Agency, in coordination with the Office of

Labor Standards, is authorized to contract with academic and/or policy researchers to conduct an evaluation to recommend a minimum compensation standard for TNC drivers that is comprised of at least the equivalent of the “hourly minimum wage” established for Schedule 1 employers in Chapter 14.19 plus reasonable expenses.

D. The Agency shall complete its evaluation and, along with the Office of Labor

Standards, present its recommendations to the Mayor and Council by March 31, 2020.

E. After receipt of the Agency's recommendation, the Mayor shall transmit to Council proposed legislation implementing a minimum compensation standard for TNC drivers no later than July 1, 2020.

#### **14.31.250 Severability**

The provisions of this Chapter 14.31 are declared to be separate and severable. If any clause, sentence, paragraph, subdivision, section, subsection, or portion of this Chapter 14.31, or the application thereof to any TNC, TNC driver, or circumstance, is held to be invalid, it shall not affect the validity of the remainder of this Chapter 14.31, or the validity of its application to other persons or circumstances.

\* \* \*

Section 3. No provision of this ordinance shall be construed as providing any determination regarding the legal status of TNC drivers as employees or independent contractors.

## **Attachment 1 – OLS TNC Driver Minimum Compensation Ordinance**

Kerem Levitas  
OLS TNC Driver Minimum Compensation ORD  
D1a

1       Section 4. 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 \_\_\_\_\_ day of \_\_\_\_\_, 2019,  
5 and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of  
6 \_\_\_\_\_, 2019.

<sup>7</sup> \_\_\_\_\_

8 President \_\_\_\_\_ of the City Council

9 Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

10 | Page

11 Jenny A. Durkan, Mayor

12 | Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

13 | Page

14 Monica Martinez Simmons, City Clerk

15 | (Seal)

**Attachment 2 – OLS TNC Driver Deactivation Rights Ordinance**

Kerem Levitas  
OLS TNC Driver Deactivation Rights ORD  
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**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

**COUNCIL BILL \_\_\_\_\_**

..title

AN ORDINANCE relating to transportation network company drivers; establishing deactivation protections for transportation network company drivers; amending Section 3.15.000 of the Seattle Municipal Code; and adding a new Chapter 14.32 to the Seattle Municipal Code.

..body

WHEREAS, the Washington Constitution provides in Article XI, Section 11 that “[a]ny county,

city, town or township may make and enforce within its limits all such local police,

sanitary and other regulations as are not in conflict with general laws”; and

WHEREAS, the state of Washington, in Revised Code of Washington (RCW) 46.72.001, has

authorized political subdivisions of the state to regulate for-hire drivers and for-hire

transportation services, which terms encompass the regulation of transportation network

company (TNC) drivers, TNCs, and TNC services, to ensure safe and reliable TNC

services; and

WHEREAS, TNCs provide application dispatch services that allow passengers to directly

request the dispatch of drivers via the internet using mobile interfaces such as smartphone

applications; and

WHEREAS, in 2018, the two largest TNCs accounted for over 24 million trips in the City and

King County; and

WHEREAS, these two companies are also major hiring entities, accounting for most of the

31,676 TNC drivers issued permits by King County in 2018 as recorded by the King

County Department of Licensing; and

**Attachment 2 – OLS TNC Driver Deactivation Rights Ordinance**

Kerem Levitas  
OLS TNC Driver Deactivation Rights ORD  
D1e

1 WHEREAS, the regulation of TNC driver protections better ensures that drivers can perform  
2 their services in a safe and reliable manner and thereby promotes the welfare of the  
3 people and is thus a fundamental governmental function; and

4 WHEREAS, the establishment of minimum labor standards for TNC drivers is a subject of vital  
5 and imminent concern to the people of this City and requires appropriate action by City  
6 Council to establish such minimum labor standards within the City;

7 NOW, THEREFORE,

8 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

9       Section 1. Findings

10       A.     In order to protect the public health, safety, and welfare, The City of Seattle is  
11 granted express authority to regulate for-hire transportation services pursuant to chapter 46.72  
12 RCW. This authority includes regulating entry, requiring a license, controlling rates, establishing  
13 safety requirements, and any other requirement to ensure safe and reliable transportation  
14 services.

15       B.     In the pursuit of economic opportunity, many transportation network company  
16 (TNC) drivers are immigrants and people of color who have taken on debt or invested their  
17 savings to purchase and/or lease vehicles to provide TNC services.

18       C.     The TNCs represent that their business models rely on TNC drivers being  
19 classified as independent contractors, and that they are exempt from minimum labor standards  
20 established by federal, state, and local law.

21       D.     TNC drivers are subject to TNC companies' policies that can be unilaterally  
22 changed so they can be deactivated for a variety of reasons, and they do not have consistent  
23 access to due process for such deactivations, nor do they have regular access to human resources

**Attachment 2 – OLS TNC Driver Deactivation Rights Ordinance**

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1 staff who have the power to correct unwarranted deactivations, via either in-person meeting or  
2 telephone, to air their deactivation-related grievances.

3       E.     The TNCs deactivate drivers with unclear processes for review of those  
4 deactivations. Establishing a reasonable standard for the deactivations of TNC drivers as well as  
5 access to a neutral Deactivation Appeals Process in which unwarranted deactivations may be  
6 challenged will help ensure that thousands of drivers who provide vital transportation services in  
7 Seattle will be able enjoy a small measure of job security.

8       F.     TNC drivers who have protection against unwarranted deactivation will be more  
9 likely to remain in their positions over time, and to devote more time to their work as TNC  
10 drivers. Such experienced drivers will improve the safety and reliability of the TNC services  
11 provided by the TNCs to passengers and thus reduce safety and reliability problems created by  
12 frequent turnover in the TNC services industry.

13           Section 2. A new Chapter 14.32 is added to the Seattle Municipal Code as follows:

**CHAPTER 14.32 TRANSPORTATION NETWORK COMPANY DRIVERS**

**DEACTIVATION RIGHTS**

**14.32.010 Short title**

This Chapter 14.32 shall constitute the “Transportation Network Company Driver Deactivation  
Rights Ordinance” and may be cited as such.

**14.32.015 Declaration of policy**

It is declared to be the policy of the City, in the exercise of its police powers for the protection of  
the public health, safety, and general welfare, and for the maintenance of peace and good  
government, to ensure that TNC drivers can perform their services in a safe and reliable manner,

**Attachment 2 – OLS TNC Driver Deactivation Rights Ordinance**

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1 and thereby promote the welfare of the people who rely on such services to meet their  
2 transportation needs.

3 **14.32.020 Definitions**

4 For the purposes of this Chapter 14.32:

5 “Agency” means the Office of Labor Standards and any division therein.

6 “Aggrieved party” means the TNC driver or other person who suffers tangible or  
7 intangible harm due to the TNC’s violation of this Chapter 14.32.

8 “Application dispatch” means technology that allows consumers to directly request  
9 dispatch of TNC drivers for trips and/or allows TNC drivers or TNCs to accept trip requests and  
10 payments for trips via the internet using mobile interfaces such as, but not limited to, smartphone  
11 and tablet applications.

12 “Available platform time” means the time a TNC driver is logged in to the driver  
13 platform prior to receiving a trip request from a TNC.

14 “City” means The City of Seattle.

15 “Compensation” means payment owed to a TNC driver by reason of providing TNC  
16 services.

17 “Days” means calendar days.

18 “Deactivation” means the blocking of a TNC driver’s access to the driver platform,  
19 changing a TNC driver’s status from eligible to provide TNC services to ineligible, or other  
20 material restriction in access to the driver platform that is effected by a TNC.

21 “Director” means the Director of the Office of Labor Standards.

22 “Dispatch location” means the location of the TNC driver at the time the TNC driver  
23 accepts a trip request from the TNC.

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1       “Dispatch platform time” means the time a TNC driver spends traveling from dispatch  
2 location to passenger pick-up location. Dispatch platform time ends when a passenger cancels a  
3 trip, fails to appear for a trip, or enters the TNC driver’s vehicle.

4       “Driver platform” means the driver-facing application dispatch system software or any  
5 online-enabled application service, website, or system, used by a TNC driver, that enables the  
6 prearrangement of passenger trips for compensation.

7       “Driver Resolution Center” means a non-profit organization registered with the  
8 Washington Secretary of State that contracts with the Agency to provide culturally competent  
9 TNC driver representation services, outreach, and education, that is affiliated with an  
10 organization that has experience representing workers in grievance proceedings and whose  
11 administration and/or formation was/is not funded, excessively influenced, or controlled by a  
12 TNC.

13       “Operating in Seattle” means, with respect to a TNC, providing application dispatch  
14 services to any affiliated driver at any time for the transport of any passenger for compensation  
15 from or to a point within the geographical confines of Seattle.

16       “Passenger drop-off location” means the location where a passenger exits a TNC driver’s  
17 vehicle at the end of a trip.

18       “Passenger pick-up location” means the location where a passenger has requested to be  
19 picked up at the time of dispatch, for the purpose of receiving TNC services.

20       “Passenger platform time” means the period of time commencing when a passenger  
21 enters the TNC driver’s vehicle until the time when the passenger exits the TNC vehicle.

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1       “Representative” means a person who gives advice or guidance and includes, but is not  
2 limited to, family members, friends, licensed professionals, attorneys, advocates, and Driver  
3 Resolution Center advocates.

4       “Respondent” means the TNC who is alleged or found to have committed a violation of  
5 this Chapter 14.32.

6       “TNC services” means services related to the transportation of passengers that are  
7 provided by a TNC driver while logged in to the driver platform, including services provided  
8 during available platform time, dispatch platform time, and passenger platform time.

9       “Transportation network company” or “TNC” means an organization whether a  
10 corporation, partnership, sole proprietor, or other form, licensed or required to be licensed under  
11 Chapter 6.310, operating in Seattle that offers prearranged transportation services for  
12 compensation using an online-enabled application or platform, such as an application dispatch  
13 system, to connect passengers with drivers using a “transportation network company (TNC)  
14 endorsed vehicle,” as defined in Chapter 6.310.

15       “Transportation network company driver” or “TNC driver” means a licensed for-hire  
16 driver, as defined in Chapter 6.310, affiliated with and accepting trips from a licensed  
17 transportation network company. For purposes of this Chapter 14.32, at any time that a driver is  
18 logged into the driver platform, the driver is considered a TNC driver.

19       “TNC dispatched trip” or “trip” means the dispatch of a TNC driver to provide  
20 transportation to a passenger in a TNC endorsed vehicle through the use of a TNC’s application  
21 dispatch system. The term “TNC dispatched trip” or “trip” does not include transportation  
22 provided by taxicabs or for-hire vehicles, as defined in Chapter 6.310.

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1       “Written” or “writing” means a printed or printable communication in physical or  
2 electronic format including a communication that is transmitted through email, text message, or a  
3 computer system, or is otherwise sent and maintained electronically.

4       **14.32.030 TNC driver coverage**

5       A TNC driver is covered by this Chapter 14.32 if the TNC driver provides TNC services within  
6 the geographic boundaries of the City for a TNC covered by this Chapter 14.32.

7       **14.32.040 TNC coverage**

8           A.      TNCs that report greater than 1,000,000 trips that originate in the City per the  
9 most recent quarterly report under Section 6.310.540 are covered under this Chapter 14.32.

10          B.     Separate entities that form an integrated enterprise shall be considered a single  
11 TNC under this Chapter 14.32. Separate entities will be considered an integrated enterprise and a  
12 single TNC under this Chapter 14.32 where a separate entity controls the operation of another  
13 entity. The factors to consider include, but are not limited to:

- 14           1.     Degree of interrelation between the operations of multiple entities;
- 15           2.     Degree to which the entities share common management;
- 16           3.     Centralized control of labor relations; and
- 17           4.     Degree of common ownership or financial control over the entities.

18       **14.32.050 Protection from unwarranted deactivation**

19           A.     TNC driver deactivation rights

20           1.     No TNC shall subject a TNC driver to unwarranted deactivation, as  
21 defined by Director’s rule.

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1                   2. Subject to driver eligibility standards created by Director's rule, a TNC  
2 driver shall have a right to challenge all permanent deactivations and temporary deactivations, as  
3 defined by Director's rule.

4                   3. The TNC driver has the right to elect between representing themselves  
5 during any deactivation challenge or being represented by a representative, including an  
6 advocate from the Driver Resolution Center. The Driver Resolution Center shall have discretion  
7 to determine whether to represent a TNC driver.

8                   4. Upon deactivation, every TNC shall furnish to the TNC driver a written  
9 statement of the reasons for and effective date of deactivation and provide notice, in a form and  
10 manner designated by the Agency, of the TNC driver's right to challenge such deactivation  
11 under this Section 14.32.050. The Agency shall create and distribute the notice in English and  
12 other languages as provided by rules issued by the Director.

13                  B. The TNC driver and TNC may, by mutual agreement, proceed to arbitration  
14 through the Deactivation Appeals Panel arbitration ("Panel arbitration") proceeding created by  
15 this Chapter 14.32 instead of proceeding under any applicable arbitration agreement between the  
16 TNC driver and the TNC ("private arbitration agreement"). In the absence of a private arbitration  
17 agreement between a TNC driver and a TNC, the TNC driver shall have an absolute right to  
18 challenge the deactivation pursuant to subsections 14.32.050.C and 14.32.050.D, regardless of  
19 agreement by the TNC.

20                  C. Deactivation Appeals Panel process

21                  1. If the TNC driver and TNC agree to proceed to arbitration through the  
22 Deactivation Appeals Panel arbitration proceeding created by this Chapter 14.32, the TNC driver

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1 and/or a representative must provide notice to the TNC of intent to challenge the deactivation no  
2 later than 60 days after the deactivation.

3           2.       The TNC and the TNC driver and/or a representative shall attempt to  
4 resolve the challenge informally no later than 15 days after the notice of intent to challenge has  
5 been provided to the TNC, or within a time frame mutually agreed by the parties.

6           3.       If the parties resolve the challenge informally pursuant to subsection  
7 14.32.050.C.2, they must memorialize that resolution in a written agreement.

8           4.       The TNC driver and/or representative must provide notice of intent to  
9 arbitrate to the TNC no later than 15 days after the notice of intent to challenge has been  
10 provided to the TNC under subsection 14.32.050.C.1.

11          5.       If a TNC driver demonstrates that a TNC failed to engage in the informal  
12 appeals process under this subsection 14.32.050.C, there shall be a presumption, rebuttable by  
13 clear and convincing evidence, before the Deactivation Appeals Panel that the deactivation is  
14 unwarranted.

15          D.      Deactivation Appeals Panel

16          1.       The City shall establish a “Deactivation Appeals Panel” (“Panel”) for  
17 purposes of hearing TNC driver challenges to deactivations. The Agency shall contract with one  
18 or more persons or entities (“neutral arbitrator”) to conduct arbitration proceedings to hear  
19 deactivation challenges. The neutral arbitrator shall be one member of the Panel. The remaining  
20 Panel members shall consist of an equal number of partisan panel members, representing the  
21 interests of the TNC driver and the TNC, respectively. The partisan panel members shall not be  
22 compensated by the City.

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1           2. The utilization of the Panel arbitration proceeding created by this Chapter  
2         14.32 is voluntary upon agreement by both parties and shall be of no cost to the TNC driver. If  
3 utilized, the Panel shall be the sole arbitration proceeding for challenging the deactivation.

4           3. The cost of arbitration, including any fee charged by an arbitrator, will be  
5 shared equally by the TNC and the Driver Resolution Center. If the TNC driver is not  
6 represented by a representative of the Driver Resolution Center, the TNC shall be solely  
7 responsible for the cost of arbitration.

8           4. The arbitration shall be conducted no later than 30 days after the notice of  
9 intent to arbitrate has been provided to the TNC under subsection 14.32.050.C.4, within a time  
10 frame mutually agreed by the parties, or as ordered by the Panel.

11          5. Subject to rules issued by the Director, the Panel may conduct pre-hearing  
12 procedures, as well as an evidentiary hearing at which parties shall be entitled to present  
13 witnesses and written evidence relevant to the dispute, and to cross-examine witnesses.

14          6. The Panel's decision in any case shall be by majority vote, with each  
15 arbitrator holding one vote.

16          7. The Panel shall issue a written decision and, if appropriate, award relief.  
17 The Panel shall endeavor to issue the written decision within 48 hours of the evidentiary hearing.

18          8. Upon a decision concluding an unwarranted deactivation occurred, the  
19 Panel may order such relief as may be appropriate to remedy the violation including, without  
20 limitation, all remedies provided in Section 14.32.170. Should the Panel order that the TNC  
21 driver be reinstated, such order shall be limited to reinstatement to provide TNC services from a  
22 passenger drop-off location or a passenger pick-up location in the City.

23          9. The decision of the Panel shall be final and binding upon the parties.

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1           10. Nothing in this subsection 14.32.050.D shall be construed as restricting a  
2 TNC driver's right to pursue any remedy at law or equity for an unwarranted deactivation.

3           11. The Director shall issue rules to effectuate the terms of this Section  
4 14.32.050 including, but not limited to, rules regarding the definition of unwarranted  
5 deactivation, driver eligibility to challenge deactivations, the selection of and criteria for the  
6 neutral arbitrator and partisan panel members, and the number of partisan panel members. The  
7 Director shall further consider methods to protect passenger privacy and address potential safety  
8 concerns during the Deactivation Appeal Panel proceeding.

9           E. Subject to the provisions of this Section 14.32.050 and rules issued by the  
10 Director, a TNC may immediately deactivate a TNC driver if such action is required to comply  
11 with any applicable local, state, or federal laws or regulations or where a TNC driver has  
12 engaged in egregious misconduct.

13           F. For deactivations not described in subsection 14.32.050.E, the TNC shall provide  
14 the TNC driver with 14 days' notice of the impending deactivation.

15           G. In computing any period of time prescribed or allowed by this Section 14.32.050,  
16 the day of the act, event, or default from which the designated period of time begins to run shall  
17 not be included. The last day of the period so computed shall be included, unless it is a Saturday,  
18 a Sunday, or a federal or City holiday, in which event the period runs until the end of the next  
19 day which is neither a Saturday, a Sunday, nor a federal or City holiday.

20 **14.32.060 Driver Resolution Center**

21           A. The Agency may contract with a Driver Resolution Center to provide driver  
22 resolution services. Those services shall include, but not be limited to:

**Attachment 2 – OLS TNC Driver Deactivation Rights Ordinance**

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- 1           1. Consultation and/or direct representation for TNC drivers facing  
2 deactivation;
- 3           2. Other support for TNC drivers to ensure compliance with applicable labor  
4 standards and/or to support their ability to perform TNC services; and
- 5           3. Outreach and education to TNC drivers regarding their rights under this  
6 Chapter 14.32 and other applicable federal, state, and local laws and regulations.

7           B. The Director must approve in advance, by rule or otherwise, the provision of any  
8 services by a Driver Resolution Center pursuant to contract other than those identified in  
9 subsection 14.32.060.A. Any additional services provided must be consistent with this Chapter  
10 14.32.

**14.32.116 Rulemaking authority**

12 The Director is authorized to administer this Chapter 14.32. The Director shall exercise all  
13 responsibilities under this Chapter 14.32 pursuant to rules and regulations developed under  
14 Chapter 3.02. The Director is authorized to promulgate, revise, or rescind rules and regulations  
15 deemed necessary, appropriate, or convenient to administer, and evaluate the provisions of this  
16 Chapter 14.32, providing affected entities with due process of law and in conformity with the  
17 intent and purpose of this Chapter 14.32.

**14.32.140 Violation**

19 The failure of any respondent to comply with any requirement imposed on the respondent under  
20 this Chapter 14.32 is a violation.

**14.32.170 Remedies**

2           A.     The payment of unpaid compensation, liquidated damages, and interest provided  
3 under this Chapter 14.32 is cumulative and is not intended to be exclusive of any of the above  
4 referenced remedies and procedures.

5           1.     Interest shall accrue from the date the unpaid compensation was first due  
6 at 12 percent annum, or the maximum rate permitted under RCW 19.52.020.

7           2.     When determining the amount of liquidated damages payable to aggrieved  
8 parties due under this Section 14.32.170, the Panel shall consider:

9           a.     The total amount of unpaid compensation, liquidated damages, and  
10 interest due;

11           b.     The nature and persistence of the violations;

12           c.     The extent of the respondent's culpability;

13           d.     The substantive or technical nature of the violations;

14           e.     The size, revenue, and human resources capacity of the  
15 respondent;

16           f.     The circumstances of each situation;

17           g.     Other factors pursuant to rules issued by the Director.

18           B.     A respondent found to be in violation of this Chapter 14.32 shall be liable for full  
19 payment of unpaid compensation plus interest in favor of the aggrieved party for the period of  
20 deactivation under the terms of this Chapter 14.32, and other equitable relief. The Director shall  
21 issue rules regarding the method of calculating unpaid compensation. The Director is authorized  
22 to designate a daily amount for unpaid compensation. For a first violation of this Chapter 14.32,

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1 the Panel may assess liquidated damages in an additional amount of up to twice the unpaid  
2 compensation.

3           1. For subsequent violations of this Chapter 14.32, the Panel may assess an  
4 amount of liquidated damages in an additional amount of up to twice the unpaid compensation.

5           2. For purposes of establishing a first and subsequent violation for this  
6 Section 14.32.170, the violation must have occurred within ten years of the settlement agreement  
7 or Panel's written decision.

8 **14.32.230 Private right of action**

9           A. Any person or class of persons that suffers financial injury as a result of a  
10 violation of this Chapter 14.32, may bring a civil action in a court of competent jurisdiction  
11 against the TNC violating this Chapter 14.32 and, upon prevailing, may be awarded reasonable  
12 attorney fees and costs and such legal or equitable relief as may be appropriate to remedy the  
13 violation including, without limitation, the payment of any unpaid compensation plus interest  
14 due to the person and liquidated damages in an additional amount of up to twice the unpaid  
15 compensation. Interest shall accrue from the date the unpaid compensation was first due at 12  
16 percent per annum, or the maximum rate permitted under RCW 19.52.020.

17           B. For purposes of this Section 14.32.230, "person" includes any entity a member of  
18 which has suffered financial injury, or any other individual or entity acting on behalf of an  
19 aggrieved party that has suffered financial injury.

20           C. For purposes of determining membership within a class of persons entitled to  
21 bring an action under this Section 14.32.230, two or more TNC drivers are similarly situated if  
22 they:

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1           1. Are or were contracted to perform TNC services by the same TNC or  
2 TNCs, whether concurrently or otherwise, at some point during the applicable statute of  
3 limitations period,

4           2. Allege one or more violations that raise similar questions as to liability,  
5 and

6           3. Seek similar forms of relief.

7           D. For purposes of subsection 14.32.230.C, TNC drivers shall not be considered  
8 dissimilar solely because their:

9           1. Claims seek damages that differ in amount, or  
10          2. Job titles or other means of classifying TNC drivers differ in ways that are  
11 unrelated to their claims.

12          E. Nothing contained in this Chapter 14.32 is intended to be nor shall be construed to  
13 create or form the basis for any liability on the part of the City, or its officers, employees, or  
14 agents, for any injury or damage resulting from or by reason of any act or omission in connection  
15 with the implementation or administration of this Chapter 14.32 on the part of the City by its  
16 officers, employees, or agents.

**14.32.235 Encouragement of more generous policies**

18          A. Nothing in this Chapter 14.32 shall be construed to discourage or prohibit a TNC  
19 from the adoption or retention of protections more generous than the ones required by this  
20 Chapter 14.32.

21          B. Nothing in this Chapter 14.32 shall be construed as diminishing the obligation of  
22 a TNC to comply with any contract, or other agreement providing more generous protections to  
23 TNC drivers than required by this Chapter 14.32.

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**14.32.240 Other legal requirements**

2 This Chapter 14.32 defines requirements for TNC driver deactivation protections and shall not be  
3 construed to preempt, limit, or otherwise affect the applicability of any other law, regulation,  
4 requirement, policy, or standard that provides for greater requirements; and nothing in this  
5 Chapter 14.32 shall be interpreted or applied so as to create any power or duty in conflict with  
6 federal or state law.

**14.32.250 Severability**

8 The provisions of this Chapter 14.32 are declared to be separate and severable. If any clause,  
9 sentence, paragraph, subdivision, section, subsection, or portion of this Chapter 14.32, or the  
10 application thereof to any TNC, TNC driver, or circumstance, is held to be invalid, it shall not  
11 affect the validity of the remainder of this Chapter 14.32, or the validity of its application to  
12 other persons or circumstances.

13       Section 3. Section 3.15.000 of the Seattle Municipal Code, last amended by Ordinance  
14 125684, is amended as follows:

**3.15.000 Office of Labor Standards created—Functions**

16 There is created within the Executive Department an Office of Labor Standards, under the  
17 direction of the Mayor. The mission of the Office of Labor Standards is to advance labor  
18 standards through thoughtful community and business engagement, strategic enforcement and  
19 innovative policy development, with a commitment to race and social justice. The Office of  
20 Labor Standards seeks to promote greater economic opportunity and further the health, safety,  
21 and welfare of employees; support employers in their implementation of labor standards  
22 requirements; and end barriers to workplace equity for women, communities of color,  
23 immigrants and refugees, and other vulnerable workers.

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The functions of the Office of Labor Standards are as follows:

A. Promoting labor standards through outreach, education, technical assistance, and

training for employees and employers;

B. Collecting and analyzing data on labor standards enforcement;

C. Partnering with community, businesses, and workers for stakeholder input and

collaboration;

D. Developing innovative labor standards policy;

E. Administering and enforcing City of Seattle ordinances relating to minimum wage

and minimum compensation (Chapter 14.19), paid sick and safe time (Chapter 14.16), use of

criminal history in employment decisions (Chapter 14.17), wage and tip compensation

requirements (Chapter 14.20), secure scheduling (Chapter 14.22), commuter benefits (Chapter

14.30), transportation network company driver deactivation protections (Chapter 14.32), and

other labor standards ordinances the City may enact in the future.

\* \* \*

Section 4. No provision of this ordinance shall be construed as providing any

determination regarding the legal status of TNC drivers as employees or independent contractors.

## **Attachment 2 – OLS TNC Driver Deactivation Rights Ordinance**

Kerem Levitas  
OLS TNC Driver Deactivation Rights ORD  
D1e

Section 5. Section 2 of this ordinance shall take effect on July 1, 2020.

Section 6. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2019,  
and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of  
\_\_\_\_\_, 2019.

## President of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Jenny A. Durkan, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Monica Martinez Simmons, City Clerk

(Seal)