



SEATTLE CITY COUNCIL
CENTRAL STAFF

Pay-up Proposal ♦ DRAFT LEGISLATION

App-based Worker Minimum Compensation Ordinance

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Pay-up Proposal

Suite of labor standards protections for app-based workers*

- 1. Minimum compensation (pay structure)**
- 2. Transparency**
- 3. Flexibility**
4. Deactivation
5. Background checks
6. Access to restrooms
7. Protections against discrimination and right to reasonable accommodations
8. App-based Workers Advisory Board

** Proposal would also include amendments to the Independent Contractor Protections Ordinance*

App-based Worker Minimum Compensation

Creation of Title 8 Labor Standards ♦ Chapter 8.37

1. **Minimum compensation (pay structure)**
2. **Transparency**
3. **Flexibility**
4. Notice of rights
5. Recordkeeping
6. Prohibited retaliation
7. Enforcement by Office of Labor Standards (OLS)

Minimum Compensation



Policy Goals

- *Set single pay standard for all business models.*
- *Ensure payment of minimum wage plus expenses with a per-minute and per-mile floor for engaged time and engaged miles to complete each offer.*

App-based Workers

1. Covered

- Workers providing on-demand or pre-scheduled, physical services through a network company's worker platform

2. Not covered

- Workers with significant bargaining power and influence over their pay and conditions of work
- Licensed professional services (by rule), creative work, wholly digital services, sales or rental of goods or real estate, and TNC services

Network Companies

1. Covered

- Online-enabled applications or platforms that facilitate the provision of services by app-based workers
- 250 or more app-based workers worldwide, regardless of where those workers perform work

2. Not covered

- Platforms offering scheduling software, transmitting payment, or operating as digital advertising/messaging boards *that do not facilitate services, intermediate relationships, or govern the terms or oversight of work performance*

Policy Decisions

1. Removal of exemption for online orders resulting in payment of \$1,000+
2. New requirement for discretionary rulemaking on “engaged time” for offers with non-compensable time (e.g., sleep-time and other periods of off-duty time when worker can pursue personal activities without interruption)
 - Overnight home care
 - Overnight pet sitting

Minimum Compensation – Pay standard

1. Minimum compensation per engaged minute

- Minimum wage equivalent x assoc. cost factor x assoc. time factor = “per minute amount” for engaged time to ensure minimum wage for all work time

plus

2. Minimum compensation per engaged mile

- Standard mileage rate x assoc. mileage factor = “per mile amount” per engaged mile to account for all work miles including associated miles

Minimum Compensation – 2021 example

1. Minimum compensation per engaged minute

- $\$0.28 \times 1.13 \times 1.21 = \0.38 per minute of engaged time

plus

2. Minimum compensation per engaged mile

- $\$0.56$ per mile IRS rate $\times 1.25 = \$0.70$ per engaged mile

Associated Cost Factor

- **Associated Cost Factor** for baseline expenses paid by app-based workers treated as independent contractors (vs. baseline expenses paid by companies). Adjustable by OLS Director after the ordinance is in effect for three years.

Item	Amount	Notes
Pay roll tax	7.65%	Additional “employer share” of payroll taxes
State Paid Family Medical Leave	0.25%	Expense of contractor opt-in to PFML
Unemployment compensation	1.06%	Average cost to cover an employee in state unemployment insurance
Workers Compensation	2.84%	Average cost of state workers comp coverage
Miscellaneous expenses	1.2%	Equipment, business taxes & license fees
Total associated cost factor	113%	1.13

Associated Time Factor

- **Associated Time Factor** for additional working time to successfully perform work. Adjustable by OLS Director after the ordinance is in effect for three years.

Item	Amount per engaged hour	Notes
Rest breaks	2.5 minutes	10 minutes of rest time per 4 hours of work
Time to review offers	3 minutes	Minimal estimate of time to review offers
Time to availability	5 minutes	Minimal estimate of time from completion of offer to availability for next offer
Time for administrative tasks	2 minutes	Minimal estimate of time managing account, recordkeeping, engaging customer support
Total associated time factor	121%	1.21

Associated Mileage Factor

- **Associated Mileage Factor** for miles driven while a worker is not engaged on a specific offer, but when those miles are required to successfully perform work.

Amount	Notes
For every 10 engaged miles:	Non-exclusive examples
• 1.25 miles	Miles to travel to locations where offers are available or return to starting location when dispatched from hub
• 1.25 miles	Miles to travel to locations for rest breaks, meal breaks, restroom access, and administrative needs.
Total associated mileage factor 125%	1.25

Minimum Compensation – Per offer

3. Minimum compensation per offer

- For each offer, company would provide a minimum per offer amount of at least \$5
- OLS Director would annually adjust the minimum per offer amount to reflect the rate of inflation

Policy Decisions

1. Change of associated time factor from 1.25 (15 minutes) to 1.21 (12.5 minutes)
2. New requirement for discretionary rulemaking on adjusting the associated time factor
 - Authority limited to increasing the amount; no reductions
 - Requirement to consider relevant sources of data and consult the App-based Workers Advisory Board
3. New requirement for three-year waiting period before Director could adjust the associated cost factor or associated time factor

Transparency



Policy Goals

- *Ensure workers have information to make informed choices about which offers to accept, and to verify compliance with pay standard and other rights.*
- *Provide clarity to end customers and third-party businesses on the nature of charges, including which amounts are paid to workers and which are retained by the company.*

Transparency (1/2)

1. Offer information
 - a. Information available for at least three minutes
 - b. Best estimate of engaged time and mileage to complete online order
 - c. Guaranteed minimum amount of payment
 - d. Locations of work (e.g., geographic and business locations)
 - e. Physical requirements of work (e.g., flights of stairs, weight of materials)
 - f. Contents of unsealed products, when exposure or handling of such products may pose health risks or violate personal beliefs

Transparency (2/2)

2. Electronic receipts within 24 hours for each completed and/or cancelled offer
 - a. Worker receipt
 - b. Customer receipt
3. Weekly information on completed and/or cancelled offers
4. 14-day notice before significant change(s) to payment calculation
5. Disclosure to OLS of aggregate and disaggregated records on offers facilitated by its worker platform

Policy Decisions

1. Removal of requirement to provide electronic receipts to third-party businesses
2. Removal of requirement to provide workers with annual and quarterly tax information
4. Removal of requirement to provide public disclosure of aggregated records
5. New requirement to provide OLS with aggregated and disaggregated records
6. New requirement for mandatory rulemaking on providing OLS with aggregated and disaggregated records

Flexibility



Policy Goals

Protect workers' flexibility, including the right to freely choose jobs and hours, while maintaining companies' ability to provide services to end customers and third-party businesses.

Flexibility

1. No requirements to be logged into platform on specific dates and times
2. No limitations on amount of time to be logged onto platform except for health and safety restrictions
3. No adverse action based on work availability
4. Right to accept or reject any individual offer, any types of offers, and any number or proportion of offers
5. Right to cancel offer with cause (“cancellation with cause”)
6. No restriction on working for other companies, including self-employment
7. Limits on monitoring in the interest of the company

Next steps

Issues for Further Consideration (1/2)

1. **Effective date**
2. **Joint liability for end consumer**
3. **Definitions/categories of types of offers**
 - On-demand vs pre-scheduled
4. **Notice of contents of unsealed products**
 - Requirement for notice of contents that may violate *religious* beliefs (instead of *personal* beliefs)

Issues for Further Consideration (2/2)

4. Enforcement

- Minimum daily amount for unpaid compensation due to worker
- Complaint procedure – specific protocols
- Navigation program – information on private arbitration

5. Amendments to Independent Contractor Protections Ordinance

Future Stakeholder Meetings

Discussion of unIntroduced draft bills

1. Minimum compensation: Pay structure, transparency, and flexibility
2. Right to access work: Deactivation and background checks
3. Access to restrooms
4. App-based Worker Advisory Board
5. Protections against discrimination and right to reasonable accommodations
6. Amendments to Independent Contractor Protections Ordinance

Questions?