



Legislation Details (With Text)

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On agenda: 1/7/2019
Final Action: 1/11/2019 **Ord. No.** Ord 125752

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.

Sponsors: Bruce Harrell, Mike O'Brien

Indexes:

Attachments: 1. Summary and Fiscal Note, 2. Central Staff Memo, 3. Proposed Substitute, 4. Signed Ordinance 125752, 5. Affidavit for Publication

| Date | Ver. | Action By | Action | Result |
|------------|------|--|---------------------------------|--------|
| 1/11/2019 | 2 | City Clerk | attested by City Clerk | |
| 1/11/2019 | 2 | Mayor | returned | |
| 1/11/2019 | 2 | Mayor | Signed | |
| 1/11/2019 | 2 | City Clerk | submitted for Mayor's signature | |
| 1/7/2019 | 2 | City Council | passed | Pass |
| 12/18/2018 | 1 | Governance, Equity, and Technology Committee | pass as amended | Pass |
| 12/3/2018 | 1 | City Council | referred | |
| 11/29/2018 | 1 | Council President's Office | sent for review | |
| 11/29/2018 | 1 | City Clerk | sent for review | |

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

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.

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

issue the determination of compliance within 60 days of the receipt of an agreement.

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

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

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

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

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

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

1. The interest arbitrator may be selected by mutual agreement of the parties. If the parties

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

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

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

determination of (~~wages,~~) hours, safety and equipment standards, rules, and conditions of employment; and

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

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

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

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

b. If the Director finds that the agreement fails to fulfill the requirements of subsection 6.310.735.H.2, or that any challenge asserted under this subsection 6.310.735.I.4 should be sustained, the Director shall remand the agreement to the interest arbitrator with a written explanation of the failure(s) and, at the Director's discretion, recommendations to remedy the failure(s).

c. The agreement shall not go into effect until the Director affirmatively deems the

agreement final and binding pursuant to subsections 6.310.735.I.3 and 6.310.735.I.4.a.

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

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

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

Section 3. 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)