



SEATTLE CITY COUNCIL

Governance, Accountability, and Economic Development Committee

Agenda

Thursday, May 9, 2024

2:00 PM

Council Chamber, City Hall
600 4th Avenue
Seattle, WA 98104

Sara Nelson, Chair
Robert Kettle, Vice-Chair
Joy Hollingsworth, Member
Maritza Rivera, Member
Rob Saka, Member

Chair Info: 206-684-8809; Sara.Nelson@seattle.gov

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SEATTLE CITY COUNCIL
**Governance, Accountability, and Economic
Development Committee**
Agenda
May 9, 2024 - 2:00 PM

Meeting Location:

Council Chamber, City Hall , 600 4th Avenue , Seattle, WA 98104

Committee Website:

seattle.gov/council/committees/governance-accountability-and-economic-development

This meeting also constitutes a meeting of the City Council, provided that the meeting shall be conducted as a committee meeting under the Council Rules and Procedures, and Council action shall be limited to committee business.

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Submit written comments to Councilmembers at Council@seattle.gov.

Please Note: Times listed are estimated

A. Call To Order

B. Approval of the Agenda

C. Public Comment

D. Items of Business

1. [CB 120766](#) **AN ORDINANCE relating to recruitment and retention of police officers in the Seattle Police Department (SPD); transferring positions from Seattle Department of Human Resources (SDHR) to SPD; creating in SPD a recruitment and retention program; amending Ordinance 126955, which adopted the 2024 Budget; changing appropriations to various departments and budget control levels, and from various funds in the Budget; amending Section 4.08.070 of the Seattle Municipal Code; and ratifying and confirming certain prior acts.**

Supporting Documents: [Summary and Fiscal Note](#)
[Central Staff Memo](#)
[Amendment 1](#)
[Amendment 2](#)
[Amendment 3](#)

Briefing, Discussion, and Possible Vote (50 minutes)

Presenters: Ann Gorman and Greg Doss, Council Central Staff

2. [CB 120775](#) **AN ORDINANCE relating to app-based worker labor standards; establishing a new compensation scheme for app-based workers with minimum pay requirements and related standards for transparency and flexibility; amending Sections 8.37.020, 8.37.050, 8.37.060, 8.37.070, 8.37.080, 8.37.100, 8.37.110, 8.37.120, 8.37.125, 8.37.165, and 8.37.170 of the Seattle Municipal Code; and repealing Section 8.37.230 of the Seattle Municipal Code.**

Supporting
Documents:

[Summary and Fiscal Note](#)

[Summary - Att 1 – Ordinance 126595 – App-Based Worker
Minimum Payment Ordinance](#)

[Central Staff Memo \(added 4/26/2024\)](#)

[Presentation 4/25/2024 \(Added 4/26/2024\)](#)

[ABWMP Revisions Ordinance Amendments Packet 5/9/2024](#)

Briefing, Discussion, and Possible Vote (50 minutes)

Presenters: Jasmine Marwaha and Karina Bull, Council Central Staff

E. Adjournment



Legislation Text

File #: CB 120766, **Version:** 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to recruitment and retention of police officers in the Seattle Police Department (SPD); transferring positions from Seattle Department of Human Resources (SDHR) to SPD; creating in SPD a recruitment and retention program; amending Ordinance 126955, which adopted the 2024 Budget; changing appropriations to various departments and budget control levels, and from various funds in the Budget; amending Section 4.08.070 of the Seattle Municipal Code; and ratifying and confirming certain prior acts.

WHEREAS, Seattle Police Department (SPD) officers work to protect the community, are tasked with

upholding the rule of law and protecting life and property and put themselves in harm's way to fight crime, get drugs off our streets, and protect Seattle residents and visitors; and

WHEREAS, since the summer of 2020, SPD separation surveys show that some departing officers have

indicated that a perceived lack of support from the community and Seattle's elected representatives have contributed to the largest number of officer resignations in recent history, resulting in a net reduction of 337 Fully Trained Officers and 368 Deployable Officers; and

WHEREAS, SPD and other large local law enforcement agencies continue to struggle to meet annual hiring

goals, and Seattle elected officials wish to create a welcoming environment that attracts quality officer candidates; and

WHEREAS, the Council has since 2021 fully funded SPD's recruitment plans and supports the department's

efforts to add by the end of the year a net of 15 new officers, representing a combination of 120 new hires and 105 separations; and

WHEREAS, the Council passed in May 2022 Resolution 32050 calling for the establishment of a hiring

incentive program to provide bonuses for entry level and lateral police officer hires, funded by salary and benefits savings from vacant SPD positions to better compete against regional jurisdictions offering the same; and

WHEREAS, the City passed in August 2022 Ordinance 126654, which authorized funding for police officer hiring bonuses, allocated \$1.6 million towards the recruitment and retention of SPD officers, and created in the Seattle Department of Human Resources (SDHR) three new recruitment positions and one new police officer testing position; and

WHEREAS, the 2023 and 2024 Adopted Budgets each included: (1) full funding for police hiring bonuses, and (2) \$2.9 million per year for an Executive-led recruitment and retention program; and

WHEREAS, Council investments in SPD recruitment have in the last two years yielded approximately half of the department's annual hiring targets, reaching a high of only 61 hires out of 1,948 applications in 2023, a conversion rate of three percent; and

WHEREAS, the Executive has transferred into SPD two of the three recruitment positions that were created in Ordinance 126654, and has entered into an Memorandum of Understanding that repurposes the third position, a Manager 2 position, for other duties at the Public Safety Civil Service Commission (PSCSC); and

WHEREAS, the PSCSC is statutorily responsible civil service examinations for sworn positions in the public safety civil service system, including entry level and lateral police officer positions, creation of an eligibility register and the certification of names of persons who pass civil service examinations; and

WHEREAS, the officer hiring process at a majority of regional jurisdictions is shorter than Seattle's minimum of six months and includes best practices such as timely personal acknowledgement of application receipt and successful test completion; and

WHEREAS, the PSCSC does not have the staffing resources to certify passing police officer candidate names more than seven times per year, or to make personal contact with candidates before or after an exam;

and

WHEREAS, the PSCSC does not currently use a public safety civil service exam that is compatible with Seattle's neighboring law enforcement agencies; and

WHEREAS, the Council is committed to a process of regularly re-examining the City's budget to determine how to best allocate resources and seeks to improve the recruitment and retention initiative in a manner that focuses staffing resources and eliminates potential barriers that impede the hiring process; and

WHEREAS the Council, the Executive, and PSCSC share a goal of continuous improvement and are already engaged in updates to the SPD recruitment and retention initiative and PSCSC processes to speed up the publication of eligibility certifications, including the addition of PSCSC personnel resources necessary to achieve this end, and the Council seeks to codify these process changes; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. There is created in the Seattle Police Department (SPD) a Recruitment and Retention Program to be staffed by City personnel who are responsible for increasing the number of sworn officers in SPD. The program shall be led by the Manager 2, General Government position, transferred in Section 3 of this ordinance. The Manager 2 position shall have the responsibility for developing and implementing recruitment strategies, in consultation with contracted marketing or media consultants, and ensuring that a personal contact is made available to all police officer applicants for the public safety test. The Manager 2 position shall be committed to continuous improvement and shall ensure that recruitment strategies reflect best practices both nationwide and regionally.

Section 2. Beginning on July 15, 2024, and occurring semiannually thereafter, the Seattle Police Department, in coordination with the Public Safety Civil Service Commission, will provide a report to the Mayor and City Council on the City's efforts to recruit and retain sworn officers. Elements of the report shall include:

A. Metrics on the number of personal contacts made by civilians or sworn staff to candidates who have

registered for or completed a public safety exam. The data should be broken down by the type of contact made, disaggregating contacts made for test reminders or notification of a passing exam score from those that result in personal contact with an SPD recruiter.

B. Seattle’s measures on industry standards such as the exam pass rate, the number of applicants who sit for an exam, the entry applications per day, and the apply-to-eligible rate, and a measure of applicants who end up on the Register. Seattle’s rates on these standards shall be displayed alongside similar rates for competing law enforcement organizations both regionally and nationally.

C. Information and metrics on new and innovative programs that are designed to increase diversity within the department, to include an increase in female candidates, consistent with SPD’s “30 by 30” campaign.

D. Pre-exam and post-exam survey data that is used guiding marketing campaigns, ensure that more candidates sit for the exam, and provide an opportunity for continuous improvement on messaging and outreach strategies.

E. The average time necessary to complete the backgrounding process, as compared with historical backgrounding timelines and regional competitors.

F. Officer exit interviews and surveys that can inform retention strategies.

Section 3. The following positions are transferred from the Seattle Department of Human Resources (SDHR) to the Seattle Police Department:

Item	Department	Position Title	Position Numbers	Number
3.1	Seattle Department of Human Resources	Manager 2, General Government	10007452	(1.0)
	Seattle Police Department	Manager 2, General Government	10007452	1.0
	Seattle Department of Human Resources	Personnel Specialist	10007453	(1.0)
	Seattle Police Department	Personnel Specialist	10007453	1.0
	Seattle Department of Human Resources	Personnel Specialist	10007454	(1.0)

	Seattle Police Department	Personnel Specialist	10007454	1.0
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The Chief of Police is authorized to fill any of the positions subject to Seattle Municipal Code Title 4, the City’s Personnel Rules, and applicable employment laws.

Section 4. Positions transferred in Section 3 of this ordinance shall be solely dedicated to recruiting new sworn employees and retaining existing sworn employees for the Seattle Police Department (SPD). Salary and benefits for eight months of funding for 1.0 full-time employee (FTE) Manager 2, General Government, and 2.0 FTE Personnel Specialist are transferred from SDHR to SPD in Section 7 of this ordinance.

Section 5. The following new position is created in the Seattle Department of Human Resources:

Department	Position Title	Position Status	Number
Seattle Department of Human Resources	Personnel Analyst, Sr	Full-time	1.0

The Director of the Department of Human Resources may fill this position subject to Seattle Municipal Code Title 4, the City’s Personnel Rules, and applicable employment laws.

Section 6. The position created in Section 5 of this ordinance shall assist Public Safety Civil Service Commission staff as they endeavor to increase entry and lateral police register publication from seven times a year to every two weeks (26 times a year), and to endeavor to transition to a continuous examination process for Entry and Lateral Police officers. The position will also assist Commission staff as they endeavor to do following as it relates to the Seattle Police Department:

A. Pre-exam. Personally contacting and supporting each candidate by acknowledging their application, offering support with exam scheduling, addressing equipment challenges, providing exam reminders, assisting with test preparation and facilitating contact with SPD recruiters.

B. Post-exam. Personally contacting and supporting each candidate who passes the exam with notification of next steps and facilitating contact with SPD recruiters, and contacting candidates who do not pass the exam to encourage re-application,

Section 7. The appropriations for the following items in the 2024 Budget are modified as follows:

Item	Department	Fund	Budget Summary Level	Amount
5.1	Seattle Police Department	General Fund (00100)	Leadership and Administration (00100-BO-SP-P1600)	\$310,000
	Seattle Human Resources Department	General Fund (00100)	HR Services (00100-BO-HR-N6000)	(\$310,000)
Total				\$0

Section 8. Section 4.08.070 of the Seattle Municipal Code, last amended by Ordinance 125315, is amended as follows:

4.08.070 Powers and duties of Commission

The Commission shall:

* * *

C. With the support of the Seattle Human Resources Director pursuant to Section 4.04.040, prepare and administer examinations, which shall be graded and open to all who meet appropriate job-related qualifications; provided that the Commission may, by rule, designate other methods of examination based on merit when in the Commission's judgment graded examination is not practicable. Such examinations may include tests of physical fitness and/or manual skill. The Commission may designate a suitable number of persons to be examiners to conduct such examinations. A Commissioner may act as examiner.

When preparing or administering exams for entry level police officer candidates, the Commission should seek to use a public safety testing service that is also used by law enforcement agencies operating in King County, and geographically contiguous counties, and that provides greater access to candidates who wish to make multiple applications with such local law enforcement agencies; provided that any such exam is consistent with the goals of the Consent Decree or the City's Accountability Ordinance (Ordinance 125315).

D. With the support of the Seattle Human Resources Director, examinations for all classes shall be timely prepared and administered by the Commission so as to provide at all times current registers for all

classifications. The Commission is encouraged to keep entry level police officer position registers current by endeavoring to provide an updated register every two weeks. Eligible registers shall remain in effect for a time determined by the Commission; provided, that no eligible register shall remain in effect for more than two years.

E. With the support of the Seattle Human Resources Director, provide notice of the time, place and general scope of every examination not less than ten days preceding such examination, and for promotional exams by posting in the Commission office and in Police and Fire Department offices for not less than 90 days, and by other notice deemed reasonable or necessary by the Commission.

F. Endeavor to personally contact entry level and lateral exam police officer applicants for the Seattle Police Department within two business days of application submittal to offer assistance and support for completing the exam. Commission staff also endeavor to personally contact, within two business days of their completion of the exam, candidates who have successfully completed the exam, to discuss next steps and answer questions. The goal of the personal contacts should be to improve the candidate experience and to facilitate contact with Seattle Police Department recruiters, so that Seattle Police Department recruitment personnel may contact candidates in a manner that is consistent, equitable and that conforms with employment law.

((F)) G.

1. With the support of the Seattle Human Resources Director, prepare a register for each class of positions in this system from the returns or reports of the examiners of the persons whose standing upon examination for such class is not less than the minimum established by the Commission. Persons, when graded, shall take rank upon the register as candidates in the order of their relative excellence as determined by competitive examination.

a. Veteran's preference. Veteran's preference in examination and appointment shall be granted as required by federal and state law including RCW 41.04.010; provided, a person shall be entitled to

use such preference only once to successfully attain an appointment or promotion to a position.

b. Language preference. An applicant for a Seattle Police Department (SPD) position deemed fluent in a language other than English may be entitled to have 10 percent credit added to the applicant's examination score for initial hiring or promotion. To receive such credit on ~~((his or her))~~ the examination score, the applicant's fluency will be verified by the hiring authority based on a measure to be established by the Department.

c. Community service/work experience preference. An applicant for an SPD position who has completed service in the Peace Corps, AmeriCorps, or other verified equivalent work experience or community service of two years or more, may be entitled to have 10 percent credit added to the examination score. An applicant seeking credit for service in the Peace Corps must present a Peace Corps Description of Service (DOS) certifying completion of their service in the Peace Corps. To receive such credit on ~~((his or her))~~ the examination score, an applicant's equivalent work experience or community service will be assessed by the hiring authority based on standards to be established by the SPD. For example, equivalent work experience or community service might include professional or volunteer experience providing domestic violence counseling, mental health care, or social services. The equivalent work experience or community service must be confirmed through regular SPD background verification processes.

2. No applicant for an SPD position may receive more than a single 10 percent credit, which may be either for veteran's preference, language preference, or community service/work experience preference.

~~((G))~~ H. When an entry level position is to be filled, certify to the appointing authority the names of candidates in the top 25 percent of the eligible register or the top six candidates, whichever number is larger. When a vacant position other than entry level is to be filled, certify to the appointing authority to names of the top five candidates. In either circumstance, where more than one position in a class is to be filled, certify one additional name of the person standing next highest on the register for each additional position. The appointing authority shall fill such positions by appointment only from the persons certified by the Commission.

~~((H))~~ I. If there are no registers for a class, authorize temporary, provisional appointment to the vacant position. A provisional appointment shall not continue for a period longer than four months, and no person shall receive more than one (1) provisional appointment or serve more than four months as provisional appointee in any 12 month period.

~~((I))~~ J. Make investigations concerning the enforcement and effect of this chapter and the rules prescribed hereunder; and inspect all offices, places, positions and employments affected by this chapter and ascertain whether this chapter and all such rules are being obeyed. Such investigations may be made by the Commission, or by any Commissioner or agent designated by the Commission for that purpose. Like investigation may be made on written petition of a person duly verified stating that irregularities or abuses exist, setting forth in concise language the necessity and grounds for such investigation. In the course of such investigation, the Commission shall have the power to administer oaths, subpoena and require the attendance of witnesses and the production of books and papers relevant to such investigation. Alternatively, investigation or hearing may be conducted by a delegated agent of the Commission, whose investigation may be aided by subpoenas issued by the Commission.

~~((J))~~ K. To hear and determine appeals or complaints respecting the administration of this chapter.

~~((K))~~ L. With the support of the Seattle Human Resources Director, maintain a roster of employees of this system, and other records as may be necessary for proper administration of this chapter, and provide all necessary records to the Seattle Human Resources Director for inclusion in the City's personnel management information records system.

~~((L))~~ M. Recommend from time to time such City legislation as the Commission may deem advisable for the betterment of this system and/or its administration.

~~((M))~~ N. Comply with the procedures regarding the promotions of police officers and sergeants set forth in the effective collective bargaining agreement between the City and the exclusive bargaining agent of such employees, as approved by ordinance, to the extent such procedures are inconsistent with those set forth herein.

((N)) O. Jointly with the Civil Service Commission, supervise the Executive Director.

* * *

Section 9. The City acknowledges that some aspects of this ordinance may be subject to bargaining with its union partners and the City intends to do so in good faith.

Section 10. Any action consistent with the authority of Sections 3 through 10 of this ordinance taken prior to its effective date is ratified and confirmed.

Section 11. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, subsection, or portion of this ordinance, or the invalidity of its application to any person or circumstance, does not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 12. This ordinance shall take effect as provided by Seattle Municipal Code Sections 1.04.020 and 1.04.070.

Passed by the City Council the _____ day of _____, 2024, and signed by me in open session in authentication of its passage this _____ day of _____, 2024.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2024.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2024.

Scheereen Dedman, City Clerk

(Seal)

Attachments:

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact:	CBO Contact:
LEG	Greg Doss 206-681-5911	N/A

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

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to recruitment and retention of police officers in the Seattle Police Department (SPD); transferring positions from Seattle Department of Human Resources (SDHR) to SPD; creating in SPD a recruitment and retention program; amending Ordinance 126955, which adopted the 2024 Budget; changing appropriations to various departments and budget control levels, and from various funds in the Budget; amending Section 4.08.070 of the Seattle Municipal Code; and ratifying and confirming certain prior acts.

Summary and Background of the Legislation: This legislation recognizes that the Council, the Executive and Public Safety Civil Service Commission (PSCSC) share a goal of continuous improvement to the SPD Recruitment and Retention Initiative. In furtherance of this goal, the Executive, SPD and PSCSC are currently working together to (1) improve inter-departmental communication by physically relocating SDHR recruitment personnel to SPD; (2) increasing the speed and frequency of entry level police officer exams and the publication of candidate registers (i.e., a list of those who have taken and passed the exam); and (3) examining the entry level police officer candidate test to ensure that it maximizes flexibility of applicants to apply both with SPD and other law enforcement agencies located in the Puget Sound region.

This legislation would encourage PSCSC to take the following actions:

1. When preparing or administering exams for entry level police officer candidates, the Commission should seek to use a public safety testing service that is also used by law enforcement agencies operating in King County, and geographically contiguous counties, and that provides greater access to candidates who wish to make multiple applications with such local law enforcement agencies; provided that any such exam is consistent with the goals of the Consent Decree and the City’s Accountability Ordinance (Ordinance 125315).
2. Endeavor to personally contact entry level and lateral exam police officer applicants for the Seattle Police Department within two business days of application submittal to offer assistance and support for completing the exam. Commission staff also endeavor to personally contact, within two business days of their completion of the exam, candidates who have successfully completed the exam, to discuss next steps and answer questions. The goal of the personal contacts should be to improve the candidate experience and to facilitate contact with Seattle Police Department recruiters, so that Seattle Police Department recruitment personnel may contact

candidates in a manner that is consistent, equitable and that conforms with employment law.

3. The Commission is encouraged to keep entry level police officer position registers current by endeavoring to provide an updated register every two weeks.

The legislation would also transfer from SDHR to SPD \$310,000 and three recruitment positions that were created in SDHR via Ordinance 126654 (2.0 FTE Personnel Specialist, 1.0 FTE Manager 2). These positions would be solely dedicated to recruiting new sworn employees and retaining existing sworn employees for SPD. The ordinance established duties and reporting requirements for the positions.

When created in Ordinance 126654 in August 2022, the full cost of the three positions was \$465,000. This Council Bill transfers from SDHR \$310,000 of this funding to support the three positions for eight months of salary and benefit costs in SPD. The \$155,000 of budget authority remaining in SDHR is sufficient to support: (1) year-to-date expenses for the single filled recruiter position in the unit (Jan-April) and (2) partial year funding (May-Dec) of a new Personnel Analyst Sr. position that the legislation creates for PSCSC.

2. CAPITAL IMPROVEMENT PROGRAM

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

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? Yes No

The legislation would transfer 3.0 FTE positions and \$310,000 in General Fund authority between SDHR and SPD. Given that this is just a transfer of funding, there is no net change in overall appropriation authority. The legislation would also create a new 1.0 FTE Personnel Analyst Sr. position within SDHR.

Appropriation change (\$):	General Fund \$		Other \$	
	2023	2024	2023	2024
	\$0	\$0	\$0	\$0
Estimated revenue change (\$):	Revenue to General Fund		Revenue to Other Funds	
	2023	2024	2023	2024
	\$0	\$0	\$0	\$0
Positions affected:	No. of Positions		Total FTE Change	
	2023	2024	2023	2024
	0	1.0 FTE	0	1.0 FTE

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

Yes. Going forward, the net addition of one new position will add an on-going General Fund cost of approximately \$146,000, which be made through additional appropriations to SDHR and SPD in the 2025 Annual Budget.

Are there financial costs or other impacts of *not* implementing the legislation?

Yes. Potential improvements to the SPD Recruitment and Retention program and PSCSC testing processes include more effective and timely hiring practices, and better management of retention strategies. Without such improvements, the City may forgo an opportunity to maximize sworn officer staffing increases.

If there are no changes to appropriations, revenues, or positions, please delete sections 3.a., 3.b., and 3.c. and answer the questions in Section 4.

3.a. Appropriations

YES. This legislation adds, changes, or deletes appropriations.

Fund Name and Number	Department	Budget Summary Level	2024 Estimated Appropriation Change
General Fund (00100)	Seattle Police Department	Leadership and Administration (00100-BO-SP-P1600)	\$310,000
General Fund (00100)	Seattle Human Resources Department	HR Services (00100-BO-HR-N6000)	(\$310,000)
Total			\$0

3.b. Revenues/Reimbursements

NO. This legislation adds, changes, or deletes revenues or reimbursements.

3.c. Positions

YES. This legislation adds, changes, or deletes positions.

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

Position Numbers	Position Title & Department	Fund Name and Number	Program & BSL	PT/FT	2024 Positions	2024 FTE	Sunset?
10007452	Manager 2, General Government	General Fund (00100)	HR Services (00100-BO-HR-N6000)	FT	(1.0)	(1.0)	No
10007452	Manager 2, General Government	General Fund (00100)	Leadership and Administration (00100-BO-SP-P1600)	FT	1.0	1.0	No
10007453	Personnel Specialist	General Fund (00100)	HR Services (00100-BO-HR-N6000)	FT	(1.0)	(1.0)	No
10007453	Personnel Specialist	General Fund (00100)	Leadership and Administration (00100-BO-SP-P1600)	FT	1.0	1.0	No
10007454	Personnel Specialist	General Fund (00100)	HR Services (00100-BO-HR-N6000)	FT	(1.0)	(1.0)	No
10007454	Personnel Specialist	General Fund (00100)	Leadership and Administration (00100-BO-SP-P1600)	FT	1.0	1.0	No
New Position	Personnel Analyst, Sr	General Fund (00100)	HR Services (00100-BO-HR-N6000)	FT	1.0	1.0	No
Total					1.0	1.0	No

4. OTHER IMPLICATIONS

- a. Does this legislation affect any departments besides the originating departments? No
- b. Is a public hearing required for this legislation? No
- c. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation? No
- d. Does this legislation affect a piece of property? No

e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?

The Seattle Police Department has realized a net loss of 337 fully trained police officers since 2020. Consequently, 911 response times have increased, and many of Seattle’s elected officials have indicated that police hiring is a priority for the City.

This legislation has the potential to increase the speed and efficacy of SPD and the PSCSC’s police officer recruitment, retention and testing processes. To the extent that the legislation can create changes that improve these processes, the City may realize more sworn officer hires than it would have absent the adoption of the legislation.

In the last five years, SPD has put greater effort into recruiting people of color and has seen an increase in BIPOC hires from 37% to a high of 55%. If SPD continues to be successful in its efforts to recruit people of color, it will have an effect of diversifying the sworn force. This legislation has a potential to assist with the department’s goals in this area.

Additional sworn officer hires would increase the size of the Seattle Police Department sworn force and, depending on how any additional officers are used and deployed, could increase the incidence of arrests and for individuals’ entry into a criminal legal system that has historically had disproportionate impacts on vulnerable and historically disadvantaged communities. Elected leaders and police command staff must consider the potential for reducing these harms as SPD replenishes its officer numbers to prior levels.

f. Climate Change Implications

1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?

Seattle will see an increase in carbon emissions as SPD nears its historical deployment rates and expands its existing/ current use of fossil fuels that support its patrol fleet.

2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle’s resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.

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

See Seattle Police Department Micro Policing Plans at:
<https://www.seattle.gov/police/information-and-data/data/mcpp-about>

Summary Attachments (if any):

April 9, 2024

MEMORANDUM

To: Governance, Accountability & Economic Development Committee
From: Greg Doss, Analyst
Subject: TMP-10423 (D1d) – Seattle Police Department Recruitment and Retention

On April 11, 2024, the Governance, Accountability & Economic Development Committee will discuss a draft ordinance, TMP-10423, which would:

1. Create in the Seattle Police Department (SPD) a new Recruitment & Retention program that would be staffed by three positions that would be transferred from the Seattle Department of Human Resources (SDHR);
2. Encourage the Public Safety Civil Service Commission (PSCSC) to use an entry level police officer exam that is presently used by multiple law enforcement agencies in the Puget Sound region, and to increase candidate contacts and the frequency of publication of its police officer eligibility registers; and
3. Add to SDHR a new Personnel Analyst Sr. position to support registry publications and to provide more robust candidate support.

This memo describes the changes that would be made by the draft ordinance and compares those changes with the budget adjustments and recruitment process revisions currently under consideration by the Executive and PSCSC. The bill Sponsors, Executive and PSCSC have indicated that they have shared goals to improve SPD’s recruitment processes. Central staff could, if requested, draft amendments that might align the disparate approaches to this issue.

Background

In May 2022, the Council passed [Resolution 32050](#), calling for the establishment of a hiring incentive program to provide bonuses for entry level and lateral police officer hires to better compete against regional jurisdictions offering the same. In August 2022, the Council passed [Ordinance \(ORD\) 126654](#), which authorized funding for police officer hiring bonuses, allocated funding towards the recruitment and retention of SPD officers and created in SDHR three new police officer recruitment positions (a Manager 2 position and two Personnel Specialist positions) and one new position (Personnel Specialist) for the SDHR Fire and Police Exams Unit.

Council investments in police officer recruitment have not resulted in an increase in hiring. In the last two years, SPD yielded approximately half of its annual hiring targets, reaching a high of only 61 hires out of 1,948 applications in 2023, a conversion rate of three percent. A nationwide shortage of police applicants has likely contributed to the difficulty SPD has experienced hiring new recruits, and it’s possible that SPD might have hired fewer recruits absent the City’s investments.¹

¹ See [Recruitment Retention.pdf \(policeforum.org\)](#)

Applications submitted to the PSCSC have in the past five years declined from a high of 3,118 in 2019 to a low of 1,895 in 2022.² At the same time, applicant-to-hire conversion rates have hovered around three percent regardless of the number of applicants.

The bill sponsors indicated in the March 12, 2024, meeting of the Public Safety Committee that: (1) the SPD recruitment initiative would be more effective if it was organized under a professional manager that would implement best practices and could be held accountable for results; and (2) that changes must be made to PSCSC processes so that register publication would occur more frequently and candidates would receive prompt personal contact from the City.

In that meeting, the Mayor's Office and PSCSC indicated that they are currently working to improve recruiting by (1) physically relocating to SPD the two SDHR recruitment staff that were created in ORD 126654; and (2) increasing the speed and frequency of entry level police officer exams and the publication of candidate registers (i.e., a list of those who have taken and passed the exam). Committee members voiced concerns that the PSCSC's proposed changes were happening too slowly to remedy SPD's shrinking police force, and asked the PSCSC Executive Director to send to members a memo that provides information that is responsive to their concerns. Soon thereafter, the Public Safety Committee Chair sent to the PSCSC Executive Director a formal inquiry about the resources necessary to improve the PSCSC testing and candidate process. In response, the PSCSC Executive Director sent a memo on April 8, 2024, that indicated that the desired process efficiencies could be achieved through the addition of a new Personnel Analyst position (see Attachment 1).

TMP-10423

TMP-10423 would create a new SPD Recruitment & Retention program, and staff the program through the transfer from SDHR to SPD of the three recruitment positions that were created in SDHR via ORD 126654 (2.0 FTE Personnel Specialist, 1.0 FTE Manager 2). These positions would be solely dedicated to recruiting new sworn employees and retaining existing sworn employees for SPD. The bill would establish duties and reporting requirements for the positions. The bill would also add to the SDHR Fire and Police Exams unit a Personnel Analyst Sr. position to assist with more frequent publication of PSCSC registers and more robust candidate support during the testing phase. In summary, the outcomes of this re-organization would be a new dedicated recruitment team in SPD, and a strengthened testing unit in SDHR.

² 2020 is not included in these statistics because it was an extreme outlier for application numbers and applicant testing.

TMP-10423 also requests that the PSCSC to take the following actions:

1. When preparing or administering exams for entry level police officer candidates, the Commission should seek to use a public safety testing service that is also used by law enforcement agencies operating in King County, and geographically contiguous counties, and that provides greater access to candidates who wish to make multiple applications with such local law enforcement agencies; provided that any such exam is consistent with the goals of the Consent Decree or the City's Accountability Ordinance ([ORD 125315](#)).
2. Endeavor to personally contact entry level and lateral exam police officer applicants for the Seattle Police Department within two business days of application submittal to offer assistance and support for completing the exam. Commission staff also endeavor to personally contact, within two business days of their completion of the exam, candidates who have successfully completed the exam, to discuss next steps and answer questions. The goal of the personal contacts should be to improve the candidate experience and to facilitate contact with Seattle Police Department recruiters, so that Seattle Police Department recruitment personnel may contact candidates in a manner that is consistent, equitable and that conforms with employment law.
3. The Commission is encouraged to keep entry level police officer position registers current by endeavoring to provide an updated register every two weeks.

Fiscal Implications

The legislation would transfer from SDHR to SPD \$310,000 and the three recruitment positions that were created in SDHR via ORD 126654 (2.0 FTE Personnel Specialist, 1.0 FTE Manager 2). These positions would be solely dedicated to recruiting new sworn employees and retaining existing sworn employees for SPD

When created in ORD 126654 in August 2022, the full annual cost of the three positions was \$465,000. This Council Bill transfers from SDHR \$310,000 of this funding to support the three positions for eight months of salary and benefit costs in SPD. The \$155,000 of budget authority remaining in SDHR is sufficient to support: (1) year-to-date expenses for the single filled recruiter position in the unit (Jan-April) and (2) partial year funding (May-Dec) of a new Personnel Analyst Sr. position that the legislation creates for PSCSC.

Going forward, the net addition of one new position will add an on-going General Fund cost of approximately \$146,000, which would be funded through additional appropriations made to SDHR and SPD in the 2025 Annual Budget.

Reorganizations in TMP-10423 as compared with those being made by the Executive

The Executive is in the process of implementing via inter-departmental Memorandums of Understanding (MOUs) a reorganization of the recruitment and retention positions that were created in ORD 126654. Some of the Executive's actions are similar to those that would be implemented through TMP-10423. Table 1 provides a comparison of TMP-10423 with Executive actions.

Table 1. Comparison of TMP-10423 with Executive actions.

SPD Recruitment Positions created in ORD 126654	TMP-10423	Under Consideration by Executive
<p>Manager 2 *Position currently vacant</p>	<p>Would require the Manager 2 to oversee all aspects of SPD’s Recruitment & Retention Program as originally intended by ORD 126654.</p> <p>Legally transfer from SDHR to SPD position and budget authority for eight months, with the transfer made permanent in the 2025 budget</p>	<p>Manager 2 position and budget is repurposed to manage the SDHR Fire & Police Exams unit, which is moved into the PSCSC via an MOU between SDHR and PSCS.</p> <p>The Executive would request position and budget to be legally transferred from SDHR to the PSCSC in a future request to the Council.</p> <p>The Executive would require the two SPD Recruiters to report to SPD’s HR Director.</p>
<p>SPD Recruiter / Personnel Spec</p>	<p>Legally transfers from SDHR to SPD position and budget authority for eight months with the transfer made permanent in the 2025 budget. Incumbent moves to SPD.</p>	<p>Position incumbent physically relocates from SDHR to SPD via an MOU.</p> <p>The Executive would request position and budget to be legally transferred to SPD in a future request to the Council.</p>
<p>SPD Recruiter/ Personnel Spec *Position currently vacant</p>	<p>Legally transfers from SDHR to SPD position and budget authority for eight months with the transfer made permanent in the 2025 budget</p>	<p>Physically locates any new hire from SDHR to SPD via an MOU</p> <p>The Executive would request position and budget to be legally transferred in a future request to the Council</p>
New Position for Exams unit		
<p>New Personnel Analyst Sr. Position</p>	<p>Creates a new Personnel Analyst Sr. position in SDHR Fire & Police Exams unit to support the PSCSC.</p> <p>Partial year funding (May-Dec) is available through existing vacancy savings in SDHR.</p> <p>Vacancy savings comes from vacancies in SPD Recruitment unit (see above).</p>	<p>Adds an Emergency Position (Personnel Analyst) to support the Fire & Police Exams unit, which is relocated to the PSCSC.</p> <p>The Executive would request a new permanent position and the associated budget authority in a future request to the Council.</p> <p>Budget authority likely derived from SDHR vacancies, but not presently understood.</p>

Transfer of the Public Safety Civil Service Exams Unit: SDHR and the PSCSC have entered into an MOU that would request in the 2025 Proposed Budget a transfer to the PSCSC of the four positions that are currently housed in the SDHR Fire & Police Exams Unit. They have also entered into an MOU that would permit the Manager 2 position created by ORD 126654 to be hired by and report to the PSCSC Executive Director to supervise the Fire & Police Exams Unit. Council approval would be required to make any of these transfers permanent. Additionally, Council approval is required to make permanent the Emergency Position that would be added to the PSCSC to supplement the Exams unit.

The Fire & Police Exams unit is currently managed by the SDHR Workforce Development manager, who splits his time between management of the Fire & Police Exams Unit and the three-person Workforce Development unit. This organizational structure is illustrated in the SDHR Org Chart in Attachment 3. Under the Executive's proposed reorganization, the Workforce Development Manager position would continue to manage the three-person Workforce Development unit, but would no longer manage the Fire & Police Exams unit.

The MOU that transfers the Exams unit says that the parties acknowledge that the Exams unit's work falls under the independent authority and direction of the PSCS and its Executive Director. It goes on to indicate that since 2001, pursuant to [Seattle Municipal Code \(SMC\) 4.04.040.C](#), the Exams unit has been located within SDHR, to provide staff and support for the development and administration of entry and promotional merit-based exams in service to the PSCSC.

New Personnel Analyst Sr. Position: In an April 8 memo to Public Safety Committee members, the PSCSC Director indicates that an additional 0.5 FTE would allow the PSCSC to provide wrap-around support during the testing process and that an additional 0.5 FTE would allow the PSCSC to increase the frequency of the candidate register publications. Finally, the memo also notes that an additional 0.2 FTE would allow the PSCSC to administer ongoing surveys to applicants to better understand and improve the candidate experience (See Attachment 1 and Attachment 2).

The Executive has indicated that the City Finance Director will soon create in the PSCSC a 1.0 FTE temporary Emergency Position that would address the activities noted above. The Executive would eventually request that the Council provide permanent position authority and ongoing budget to support the position. The position is created in the PSCSC as an addition to the Fire & Police Exams unit that is moving into the PSCSC, pending Council approval.

TMP-10423 adds a permanent position for the same purpose, and thus there is general agreement about the need for additional staff at PSCSC, whether or not the testing unit is transferred here. The budget for the position is derived from salary savings in SDHR, which had accumulated from the vacancies in the SPD Recruitment unit.

Manager Position: As noted above, TMP-10423 and the Executive would make different uses of the Manager 2 position that was originally created in ORD 126654. TMP-10423 would retain the position for the management of SPD's Recruitment and Retention program, including:

- responsibility for developing and implementing recruitment strategies, in consultation with contracted marketing or media consultants,
- ensuring that a personal contact is made available to all police officer applicants for the public safety test, and
- accountability for continuous improvement and ensuring that recruitment strategies reflect best practices both nationwide and regionally.

The Executive has entered into an MOU that would repurpose this position and associated funding to manage the Fire & Police Exams unit, and would eventually request that the Council relocate all the positions and budget in this unit to the PSCSC.

The Executive has also indicated the PSCSC is requesting a Manager position and an Analyst (emergency position) to assist with speedier certification of the qualified register. Central staff have asked the Executive and PSCSC staff why both positions are needed to successfully complete the duties noted in a March 25th memo to Council President Nelson and the April 8th memo to Public Safety Committee members (see Attachments 1 and 2). A response has not been received at the time of this writing.

PSCSC Process Changes and Entry Level Police Officer Exam

Sponsors of TMP-10423 and The Executive have articulated an interest in changing the City's entry level police officer exam from one that is administered by NTN (National Testing Network) to one that is administered by PST (Public Safety Testing); or utilizing a testing process that employs both exams. Such a change might maximize the flexibility of applicants to apply with SPD and other regional law enforcement agencies that use only the PST exam. This issue was discussed in depth at the March 12, 2024, meeting of the Public Safety Committee. Additionally, the Primary Sponsor has articulated a need to address customer service concerns that SPD recruitment personnel have made about the NTN test, and which may result in some candidates not taking the exam.

In the April 8, 2024, memo to Public Safety Committee members, the PSCSC Executive Director indicates that she has not yet finalized her due diligence report on the feasibility of using PST, However, she reports a number of potential barriers to using the PST exam, including:

- A PST validation process would customize the test for Seattle candidates. An expedited process could be completed in eight weeks, or may take several months to complete.³

³ The PSCSC memo in Attachment 1 indicates that the process would take "several months" to complete. This information conflicts with recent communications that were made with PST President John Walters, who said that the process could be expedited and completed in less than eight weeks. Central staff has not had time to investigate the differences between these estimates.

- The PSCSC’s due diligence process involves completion of a 44-question survey, which it indicates is designed to ensure that hiring standards are not compromised, and that police candidates have the competencies to carry out their duties in a manner that supports constitutional policing. PST has declined to participate in the due diligence process.

A recent communication with the PST Company President indicates that he believes that some of the questions require information that is proprietary and confidential and would be subject to public disclosure. He further indicates that his company will not complete the PSCSC due diligence process because it poses much risk to PST. The PSCSC Executive Director indicates that the survey does not request information that the PSCSC considered to be proprietary. More staff research on this issue is ongoing.

The PSCSC Executive Director has concluded that it is not possible to produce merit-based eligibility lists when using two different tests. She has indicated that her conclusion is based on her professional experience and input that she has received from experts in the field of personnel selection testing. More information is available in the April 8 memo. (Attachment 1)

Central Staff is conducting further research on the potential use of a new exam vendor and the other changes that would affect PSCSC processes (See Section 8 in TMP-10423 or page 2 in this memo). TMP-10423 does not currently mandate these changes, but rather uses discretionary language to request that the PSCSC consider the changes.

Race and Social Justice Implications

The Seattle Police Department has realized a net loss of 337 fully trained police officers since 2020. Consequently, 911 response times have increased, and many of Seattle’s elected officials have indicated that police hiring is a priority for the City.

This legislation has the potential to increase the speed and efficacy of SPD and the PSCSC’s police officer recruitment, retention and testing processes. To the extent that the legislation can create changes that improve these processes, the City may realize more sworn officer hires than it would have absent the adoption of the legislation.

In the last five years, SPD has put greater effort into recruiting people of color and has seen an increase in BIPOC hires from 37 percent to a high of 55 percent. If SPD continues to be successful in its efforts to recruit people of color, it will have an effect of diversifying the sworn force. This legislation has a potential to assist with the department’s goals in this area.

Additional sworn officer hires would increase the size of the Seattle Police Department sworn force and, depending on how any additional officers are used and deployed, could increase the incidence of arrests and for individuals’ entry into a criminal legal system that has historically had disproportionate impacts on vulnerable and historically disadvantaged communities.

Elected leaders and police command staff should consider the potential for reducing these harms as SPD replenishes its officer numbers to prior levels.

Policy Considerations

It is possible that technical amendments made to TMP-10423 would achieve the policy objectives shared by the Executive and bill sponsors, while supporting the Executive's reorganization of the Fire & Police Exams unit. Such amendments would presume that the Council would concur with the Executive's proposed reorganization, which the Committee has not had time to fully consider and is not strictly necessary to achieve the sponsor's policy goals for TMP-10423.

Attachments:

1. April 8, 2024, PSCSC Memo - Civil Service Exam Processes for Police Officers
2. March 25, 2024, PSCSC Memo - Increasing PSCSC staff capacity to support continuous police officer certification and more robust candidate support
3. SDHR 2024 Organizational Chart (Talent Acquisition Section)

cc: Ben Noble, Director
Aly Pennucci, Deputy Director

Amendment 1 to CB 120766 – SPD Recruitment and Retention

Sponsor: Councilmember Nelson

Technical Corrections

Effect: This amendment would correct several non-substantive drafting errors in the introduced bill. It would also make clarifying terminological changes, and it would rearrange the elements of a list and format them in numerical order. This amendment would not have any fiscal or operational impacts.

1. Amend recitals as follows:

WHEREAS, the Executive has transferred into SPD two of the three recruitment positions that were created in Ordinance 126654, and has entered into ~~((an))~~ a Memorandum of Understanding that repurposes the third position, a Manager 2 position, for other duties at the Public Safety Civil Service Commission (PSCSC); and

WHEREAS, the PSCSC is statutorily responsible for civil service examinations for sworn positions in the public safety civil service system, including entry level and lateral police officer positions, creation of an eligibility register, and the certification of names of persons who pass civil service examinations; and

2. Amend Section 2 as follows:

B. Seattle's ~~((measures on industry standards))~~ civil service exam metrics such as:

1. The number of entry applicants per day;

2. The apply-to-eligible rate;

3. The number of applicants who participate in the exam and the percentages of applicants who participate in the exam by type of applicant; and

4. The ~~((the))~~ exam pass rates by type of applicant. ~~((the number of applicants who sit for an exam, the entry applications per day, and the apply to eligible rate, and a measure of applicants who end up on the Register))~~.

Seattle's ~~((rates on these standards))~~ metrics shall be displayed alongside ~~((similar rates))~~ available data for competing law enforcement organizations both regionally and nationally and any available industry standards.

* * *

D. Pre-exam and post-exam survey data that is used to guide~~((ing))~~ marketing campaigns, ensure that more candidates sit for the exam, and provide an opportunity for continuous improvement on messaging and outreach strategies.

3. Amend Section 6 as follows:

Section 6. The position created in Section 5 of this ordinance shall assist Public Safety Civil Service Commission staff as they endeavor to increase ~~((entry and lateral police register))~~ publication of the open-graded register for Police Officer from seven times a year to every two weeks (26 times a year), and to endeavor to transition to a continuous examination process for Entry and Lateral Police officers. The position will also assist Commission staff as they endeavor to do the following as it relates to the Seattle Police Department:

* * *

B. Post-exam. Personally contacting and supporting each candidate who passes the exam with notification of next steps and facilitating contact with SPD recruiters, and contacting candidates who do not pass the exam to encourage re-application~~((;))~~.

4. Amend Section 8 as follows:

Section 8. Section 4.08.070 of the Seattle Municipal Code, last amended by Ordinance 125315, is amended as follows:

4.08.070 Powers and duties of Commission

The Commission shall:

* * *

D. With the support of the Seattle Human Resources Director, examinations for all classes shall be timely prepared and administered by the Commission so as to provide at all times current registers for all classifications. The Commission is encouraged to keep ~~entry level police officer position registers~~ the open-graded register for Police Officer current by endeavoring to provide an updated register every two weeks if there are police officer vacancies. Eligible registers shall remain in effect for a time determined by the Commission; provided, that no eligible register shall remain in effect for more than two years.

* * *

F. Endeavor to personally contact ~~entry level and lateral exam~~ police officer applicants for the Seattle Police Department within two business days of application submittal to offer assistance and support for completing the exam. Commission staff shall also endeavor to personally contact, within two business days of their completion of the exam, candidates who have successfully completed the exam, to discuss next steps and answer questions. The goal of the personal contacts should be to improve the candidate experience and to facilitate contact

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with Seattle Police Department recruiters, so that Seattle Police Department recruitment personnel may contact candidates in a manner that is consistent, equitable and that conforms with employment law.

Amendment 2 to CB 120766 – SPD Recruitment and Retention

Sponsor: Councilmember Nelson

Establishing a policy regarding a public safety civil service exam

Effect: This amendment would establish a City policy regarding the frequency of the public safety civil service exam required for entry level and lateral Police Officer positions in the Seattle Police Department – namely, that policy would be that this exam is offered in a manner that supports flexibility and accessibility for exam-takers. The amendment also acknowledges that this policy is secondary to the goals and requirements of both the Consent Decree and the City’s Accountability Ordinance (Ordinance 125315). It also makes a technical correction to reflect the fact that the Consent Decree and the Accountability Ordinance each have discrete goals and requirements and that all of them are in effect.

1. Add a new Section 4 to CB 120766 and renumber subsequent sections as appropriate:

Section 4. It is the City’s policy that the public safety civil service exam required for entry level and lateral Police Officer positions in the Seattle Police Department shall be offered on several dates and at several locations per year, including in-person and remote options, provided that any such exam is consistent with the goals and requirements of the Consent Decree and the City’s Accountability Ordinance (Ordinance 125315).

2. Amend Section 8 as follows:

Section 8. Section 4.08.070 of the Seattle Municipal Code, last amended by Ordinance 125315, is amended as follows:

4.08.070 Powers and duties of Commission

The Commission shall:

* * *

C.

* * *

When preparing or administering exams for entry level police officer candidates, the Commission should seek to use a public safety testing service that conforms to the extent possible to all City of Seattle policies that address exam frequency and locations and that is also used by law enforcement agencies operating in King County, and geographically contiguous counties, and that provides ~~greater~~ access to candidates who wish to make multiple applications with such local law enforcement agencies; provided that any such exam is

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consistent with the goals and requirements of the Consent Decree ~~or~~ and the City's
Accountability Ordinance (Ordinance 125315).

* * *

Amendment 3 to CB 120766 – SPD Recruitment and Retention

Sponsor: Councilmember Saka

Expanding reporting requirements and requesting a written report

Effect: This amendment would allow for the possibility that a report is provided more frequently than semiannually, and it would require that the report is written. It would also name specific law enforcement agencies regarding which report data should be provided.

1. Amend Section 2 as follows:

Section 2. Beginning on July 15, 2024, and occurring at least semiannually thereafter, the Seattle Police Department, in coordination with the Public Safety Civil Service Commission, will provide a written report to the Mayor and City Council on the City's efforts to recruit and retain sworn officers. Elements of the report shall include:

* * *

B. Seattle's measures on industry standards such as the exam pass rate, the number of applicants who sit for the exam, the entry applications per day, and the apply-to-eligible rate. Seattle's rates on these standards shall be displayed alongside similar rates for competing law enforcement organizations both regionally and nationally. These law enforcement organizations shall include without limitation, to the extent that the referenced data is available, the Cities of Portland (Oregon) and San Francisco, Long Beach, Oakland, San Diego, San Jose, and Sacramento (California).



Legislation Text

File #: CB 120775, Version: 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to app-based worker labor standards; establishing a new compensation scheme for app-based workers with minimum pay requirements and related standards for transparency and flexibility; amending Sections 8.37.020, 8.37.050, 8.37.060, 8.37.070, 8.37.080, 8.37.100, 8.37.110, 8.37.120, 8.37.125, 8.37.165, and 8.37.170 of the Seattle Municipal Code; and repealing Section 8.37.230 of the Seattle Municipal Code.

WHEREAS, Chapter 8.37 of the Seattle Municipal Code, also known as the App-Based Worker Minimum Payment Ordinance, requires network companies to provide app-based workers with minimum payment, transparent job information and receipts, and flexible terms of work; and

WHEREAS, amending labor standards for app-based workers requires appropriate action by the City Council;
NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 8.37.020 of the Seattle Municipal Code, enacted by Ordinance 126595, is amended as follows:

8.37.020 Definitions

For purposes of this Chapter 8.37:

* * *

~~((“Adverse action” means reducing compensation; garnishing tips or gratuities; temporarily or permanently denying or limiting access to work, incentives, or bonuses; offering less desirable work; terminating; deactivating; threatening; penalizing; retaliating; engaging in unfair immigration-related practices; filing a false report with a government agency; or otherwise discriminating against any person for any reason~~

~~prohibited by Section 8.37.120. “Adverse action” for an app-based worker may involve any aspect of the app-based worker’s work, including compensation, work hours, volume, and frequency of offers made available, desirability and compensation rates of offers made available, responsibilities, or other material change in the terms and conditions of work or in the ability of an app-based worker to perform work. “Adverse action” also includes any action by the network company or a person acting on the network company’s behalf that would dissuade a reasonable person from exercising any right afforded by this Chapter 8.37.)~~

~~* * *~~

~~(“Associated cost factor” means the additional percentage of the minimum wage equivalent rate that reasonably compensates app-based workers for the non-mileage expenses that are necessary to conduct app-based work, which include but are not limited to the following:~~

- ~~1. Employer-side payroll taxes that app-based workers must pay;~~
- ~~2. Cost of paid family and medical leave insurance;~~
- ~~3. Cost of state-provided unemployment insurance;~~
- ~~4. Cost of workers’ compensation insurance;~~
- ~~5. Business taxes that app-based workers must pay;~~
- ~~6. Business licensing fees that app-based workers must pay; and~~
- ~~7. Cost of miscellaneous expenses such as purchase of cellular phones, data plans, and other~~

~~equipment required for work.~~

~~“Associated mileage factor” means the additional percentage of the mileage rate that reasonably compensates app-based workers for miles traveled without compensation that are necessary to conduct app-based work, which may include but is not limited to the following:~~

- ~~1. Miles traveled after completing performance of an offer, to relocate to locations where additional offers are likely to be available or to return to the starting location; and/or~~
- ~~2. Miles traveled to locations for rest breaks, meal breaks, restroom access, and administrative~~

needs.

~~“Associated time factor” means the additional percentage of the minimum wage equivalent rate that reasonably compensates app-based workers for the time that app-based workers spend working or engaged to wait for work without compensation to perform app-based work, including but not limited to the following:~~

- ~~1. Reviewing offers;~~
- ~~2. Communicating with network companies and customers;~~
- ~~3. Relocating in anticipation of future offers;~~
- ~~4. Conducting administrative tasks; and~~
- ~~5. Taking rest breaks.))~~

* * *

“Eating and drinking establishment” means “eating and drinking establishment” as defined in Section 23.84A.010.

“En route” means traveling to the location or locations where work in furtherance of an accepted offer will occur.

“Engaged miles” means miles traveled during engaged time in a vehicle that the network company does not own and maintain, or miles traveled during engaged time in a vehicle leased by the network company or its agent to the app-based worker.

“Engaged time” means the period of time in which an app-based worker performs services in furtherance of an offer facilitated or presented by a network company (~~or participates in any training program required by a network company~~). Engaged time shall apply as described below:

1. If an offer is being facilitated or presented by an on-demand network company, or is an on-demand offer, “engaged time” begins upon the app-based worker’s acceptance of the offer or, if the app-based worker is not expected to begin performance of the offer upon acceptance, upon receipt of information by the network company that the app-based worker is en route to fulfill the offer. Engaged time ((and)) ends upon: the

app-based worker's completing performance of the offer, cancellation of the offer by the network company or customer, or cancellation with cause of the app-based worker's acceptance of the offer ~~((pursuant to))~~ when the conditions required in subsection 8.37.080.C.1 are met.

2. In all other circumstances, "engaged time" begins when the app-based worker begins performance of the offer or when the app-based worker reports to a location designated in the offer. Engaged time ends upon: the app-based worker's completing performance of the offer, cancellation of the offer by the network company or customer, or cancellation with cause of the app-based worker's acceptance of the offer ~~((pursuant to))~~ when the conditions required in subsection 8.37.080.C.1 are met.

~~((4.))~~ 3. Offers ending in a cancellation ~~((without cause))~~ by an app-based worker shall not incur any engaged time, except for cancellation with cause of the app-based worker's acceptance of the offer when the conditions required in subsection 8.37.080.C.1 are met.

~~((The Director may issue rules on "engaged time" for (a) offers with non-compensable time, such as sleep time or other periods of off-duty time; or (b) offers with periods of time when the worker is not completely relieved of the duty to perform services and cannot use the time effectively for their own purposes. "Eating and drinking establishment" means "eating and drinking establishment" as defined in Section 23.84A.010.))~~

* * *

"Hourly minimum wage" has the same meaning as established for Schedule 1 employers in Chapter 14.19. In 2024, the "hourly minimum wage" established for Schedule 1 employers in Chapter 14.19 is \$19.97.

"Incentive" means a sum of money paid to an app-based worker ~~((in addition to the guaranteed minimum network company payment for an offer,))~~ upon completion of specific tasks presented by the network companies, including but not limited to completing performance of a certain number of offers, completing performance of a certain number of consecutive offers, completing performance of an offer subject to a price multiplier or variable pricing policy, making oneself available to accept offers in a particular geographic

location during a specified period of time, or recruiting new app-based workers.

* * *

~~((“Minimum wage equivalent rate” means the per-minute equivalent of the “hourly minimum wage” established for Schedule 1 employers in Chapter 14.19. In 2022, the “hourly minimum wage” established for Schedule 1 employers in Chapter 14.19 is \$17.27 and the resultant minimum wage equivalent rate is \$0.288.))~~

* * *

“Network company earnings period” means a pay period, set by the network company, not to exceed 14 consecutive calendar days.

“Network company payment” means the amount owed to an app-based worker by the network company by reason of performing services in furtherance of ~~((an offer))~~ offers facilitated or presented by the network company, including but not limited to payment for providing services and/or commissions~~((, or participating in any training program required by a network company))~~. For the purposes of satisfying the minimum network company payment requirements of Section 8.37.050, “network company payment” includes incentives and bonuses.

* * *

“Perform services in Seattle” means activities, conducted by an app-based worker in furtherance of an offer, that occur within the geographic boundaries of Seattle.

1. The term “perform services in Seattle” includes any time spent on a commercial stop in Seattle that is related to the provision of delivery or other services associated with an offer.
2. The term “perform services in Seattle” does not include stopping for refueling, stopping for a personal meal or errands, or time spent in Seattle solely for the purpose of travelling through Seattle from a point of origin outside Seattle to a destination outside Seattle with no commercial stops in Seattle.
3. The term “perform services in Seattle” does not include time spent or services performed that the app-based worker voluntarily elects to perform or complete at a location in Seattle where the app-based

worker begins performance of the offer outside Seattle and no portion of the original offer presented to, and accepted by, the app-based worker requires time spent or services to take place in Seattle.

* * *

~~((“Standard mileage rate” means the current standard mileage rate established by the United States Internal Revenue Service (IRS) for calculation of the costs of operating an automobile. This mileage rate is adjusted annually by the IRS. For example, the 2022 mileage rate is \$0.585.))~~

* * *

~~“Unsealed” means loose items or items in packaging that have the potential, under normal conditions of handling, to open, spill, or otherwise expose an app-based worker to its contents((, including but not limited to delivery bags, boxes, or other containers designed to allow customers to transport hot food or groceries to their homes. The term “unsealed” does not include individual items pre-packaged into a bag, box, or other container that is then sealed in a manner designed to keep its contents securely contained, inaccessible, and out of view of the app-based worker)). An item is not unsealed if its packaging meets either of the following conditions:~~

1. The item’s own packaging is designed to prevent leaks or spills under normal conditions of handling (e.g., items in factory-sealed packaging); or
2. The item is packed into a bag, box, or other container that is designed to prevent leakage or breakage and that is securely closed in order to contain items during storage and transport. If an app-based worker handles items that would otherwise be considered unsealed before they are packed, the items are considered unsealed until they are packed.

* * *

Section 2. Section 8.37.050 of the Seattle Municipal Code, enacted by Ordinance 126595, is amended as follows:

8.37.050 Minimum network company payment

A. Requirement

1. For each ~~((offer))~~ network company earnings period where the app-based worker performs offers resulting in engaged time or engaged miles, a network company shall compensate app-based workers, and/or ensure app-based workers receive, at least the equivalent of a minimum network company payment that is ~~((the greater of either:~~

~~1. The minimum per-minute amount for engaged time under subsection 8.37.050.B.1 plus the minimum per-mile amount for engaged miles under subsection 8.37.050.B.2; or 2. The minimum per-offer amount under subsection 8.37.050.B.4)) the minimum per-hour amount for engaged time under subsection 8.37.050.B.1 plus the minimum per-mile amount for engaged miles under subsection 8.37.050.B.2.~~

2. For each network company earnings period, a network company shall compare the total amount of network company payments, including incentive and bonus payments, earned by the app-based worker during the network company earnings period against the minimum network company payment calculation under subsection 8.37.050.B for all engaged time and engaged miles that occurred during that network company earnings period. If the total amount of network company payments earned by that app-based worker is less than the total calculated under subsection 8.37.050.B for that network company earnings period, the network company shall include an additional sum accounting for the difference in the app-based worker's earnings when the network company processes payment for that earnings period.

B. ~~((Minimum network company payment calculation))~~ Calculation

1. ~~((Per minute))~~ Per-hour amount. For each ~~((minute))~~ hour of engaged time, or portion thereof rounded to the nearest minute, a network company shall compensate app-based workers, and/or ensure that app-based workers receive, at least the equivalent of the total of the hourly minimum wage ~~((equivalent rate multiplied by the associated cost factor multiplied by the associated time factor))~~. In ~~((2022))~~ 2024, the ~~((per minute))~~ per-hour amount is ~~((\$.38))~~ \$19.97. On ~~((January 13, 2024, and on))~~ January 1 of each year thereafter, the ~~((per minute))~~ per-hour amount shall be increased to reflect any adjustment(s) to the hourly minimum wage ~~((equivalent rate, associated cost factor, or associated time factor.))~~ The Agency shall determine

the ~~((per-minute))~~ per-hour amount and file a schedule of such amount with the City Clerk.

~~((a. Associated cost factor. The associated cost factor is 1.12.~~

~~b. Associated time factor. The associated time factor is 1.17.))~~

2. Per-mile amount. For each engaged mile traveled, a network company shall compensate app-based workers, and/or ensure that app-based workers receive, at least the equivalent of the ~~((standard mileage rate multiplied by the associated mileage factor, which is 1.10))~~ per-mile amount, rounded to the nearest tenth of a mile. ~~((In 2022))~~ On the effective date of this ordinance, the per-mile amount is ~~(((\$0.64))~~ \$0.35. On ~~((January 13, 2024, and on))~~ January 1 of each year thereafter, the per-mile amount shall be ~~((increased annually to reflect any adjustment(s) to the standard mileage rate or associated mileage factor))~~ adjusted annually to reflect the rate of inflation and calculated to the nearest cent. The Agency shall determine the per-mile amount and file a schedule of such amount with the City Clerk.

~~((3. The calculations described in this subsection 8.37.050.B are expressed in equation form as:~~

$$\begin{aligned} & \text{(Engaged minutes x minimum wage equivalent rate} \\ & \quad \text{x associated cost factor x associated time factor)} \\ & \pm \text{(engaged miles x standard mileage rate x associated mileage factor} \\ & \quad \text{= minimum network company payment per offer.} \end{aligned}$$

The established current rates and factors result in the following calculation for the required ~~minimum network company payment:~~

$$\begin{aligned} & \text{(Engaged minutes x \$0.288 x 1.12 x 1.17)} \\ & \quad \text{+ (Engaged miles x \$0.585 x 1.10)} \\ & \quad \text{= \$0.38/minute + \$0.64/mile.} \end{aligned}$$

4. Per offer amount. For each offer resulting in engaged time or engaged miles, a network company shall compensate app-based workers a minimum per offer amount of at least \$5. The Director may issue rules excluding certain offers from payment of the minimum per offer amount under subsection 8.37.050.B.4, including but not limited to on-demand offers cancelled by the customer within a grace period of ~~not more than five minutes after acceptance.~~

~~a. Effective January 1, 2024, the minimum per-offer amount paid to an app-based worker shall be increased on a percentage basis to reflect the rate of inflation and calculated to the nearest cent on January 1 of each year thereafter. The Agency shall determine the amount and file a schedule of such amount with the City Clerk.~~

~~5. Application of minimum network company payment requirements.~~

~~a. A minimum network company payment shall be provided for any offer resulting in engaged time and engaged miles by the app-based worker, offers cancelled by a customer or the network company, and offers for which acceptance was cancelled with cause by the app-based worker pursuant to subsection 8.37.080.C.~~

~~b.)) 3. If an app-based worker accepts a new offer during performance of a previously accepted offer, and both offers are facilitated or presented by the same network company, engaged time and engaged miles accrued during any period of time in which performance of the offers overlaps shall be subject to the minimum ((compensation)) network company payment requirements as if for a single offer under this subsection 8.37.050.B.~~

~~((C. Adjustment of the associated cost factor, associated time factor, and associated mileage factor~~

~~1. Adjustment of the associated cost factor. Beginning January 13, 2027, the Director by rule may adjust the associated cost factor every three years; provided, that this adjustment shall not result in reduction of the associated cost factor below 1.12. In adjusting the associated cost factor, the Director shall consider relevant and available sources of data, which may include but are not limited to: app-based worker surveys; data provided by network companies; data provided by app-based workers; data provided by customers; data from other jurisdictions; data available through academic, policy, or community-based organizations; public testimony; and stakeholder interviews. The Director may consider the non-exhaustive list of factors that comprise the “associated cost factor” as defined in Section 8.37.020, as well as any other factor the Director determines is necessary to further the purposes of this Chapter 8.37. The Agency shall file a~~

~~schedule of any adjustment(s) to the associated cost factor with the City Clerk.~~

~~2. Adjustment to the associated time factor. Beginning January 13, 2027, the Director by rule may adjust the associated time factor every three years; provided, that this adjustment shall not result in reduction of the associated time factor below 1.17. In adjusting the associated time factor, the Director shall consider relevant and available sources of data, which may include but are not limited to: app-based worker surveys; data provided by network companies; data provided by app-based workers; data provided by customers; data from other jurisdictions; data available through academic, policy, or community-based organizations; public testimony provided; and stakeholder interviews. The Director may consider the non-exhaustive list of factors that comprise the “associated time factor” as defined in Section 8.37.020, as well as any other factor the Director determines is necessary to further the purposes of this Chapter 8.37. The Agency shall file a schedule of any adjustment(s) to the associated time factor with the City Clerk.~~

~~3. Adjustment to the associated mileage factor. Beginning January 13, 2027, the Director by rule may adjust the associated mileage factor every three years; provided, that this adjustment shall not result in reduction of the associated mileage factor below 1.10. In adjusting the associated mileage factor, the Director shall consider relevant and available sources of data, which may include but are not limited to: app-based worker surveys; data provided by network companies; data provided by app-based workers; data provided by customers; data from other jurisdictions; data available through academic, policy, or community-based organizations; public testimony provided; and stakeholder interviews. The Director may consider the non-exhaustive list of factors that comprise the “associated mileage factor” as defined in Section 8.37.020, as well as any other factor the Director determines is necessary to further the purposes of this Chapter 8.37. The Agency shall file a schedule of any adjustment(s) to the associated mileage factor with the City Clerk.~~

D.) C. Deductions

1. A network company may only deduct compensation when the app-based worker expressly authorizes the deduction in writing and does so in advance for a lawful purpose for the benefit of the app-based

worker. Any such authorization by an app-based worker must be voluntary and knowing.

2. Neither the network company nor any person acting in the interest of the network company may derive any financial profit or benefit from any of the deductions under this subsection ~~((8.37.050.D))~~ 8.37.050.C. For the purposes of this subsection ~~((8.37.050.D))~~ 8.37.050.C, reasonable interest charged by the network company, or any person acting in the interest of a network company, for a loan or credit extended to the app-based worker is not considered to be of financial benefit to the network company, or any person acting in the interest of a network company.

3. A fee charged to an app-based worker who elects to access or transfer their earnings prior to the end of the network company earnings period shall be considered a permissible deduction under this subsection 8.37.050.C, provided that the fee does not exceed \$5, adjusted annually to the nearest cent to reflect the rate of inflation.

Section 3. Section 8.37.060 of the Seattle Municipal Code, enacted by Ordinance 126595, is amended as follows:

8.37.060 Tip and incentive compensation

A. ~~((Tips 1.))~~ A network company shall pay to its app-based workers all tips and gratuities.

~~((2.))~~ B. Tips paid to an app-based worker are in addition to, and may not count towards:

~~((a.))~~ 1. The app-based worker's minimum network company payment under Section 8.37.050;

~~((b.))~~ 2. A guaranteed minimum amount of network company payment for an offer, as described in Section 8.37.070, regardless of whether the guaranteed minimum amount exceeds the minimum network company payment owed to the app-based worker;

~~((c.))~~ 3. Any incentive presented to the app-based worker; or

~~((d.))~~ 4. Any amount of compensation presented to the app-based worker in exchange for the performance of services.

~~((B))~~ C. Incentives and bonuses paid to an app-based worker ~~((are in addition to, and may not))~~ may

count towards~~((;))~~ the app-based worker's minimum network company payment under Section 8.37.050.

Section 4. Section 8.37.070 of the Seattle Municipal Code, enacted by Ordinance 126595, is amended as follows:

8.37.070 Network company transparency

A. Right to up-front information regarding offers

1. A network company shall provide, and/or ensure a customer provides, an app-based worker the following information when facilitating or presenting an offer:

a. A reasonable estimate of the engaged time required to complete performance of the offer and, if applicable, the range of time in which the offer can be completed;

b. A reasonable estimate of the engaged miles required to complete performance of the offer and the approximate geographic location or locations where work in furtherance of the offer will occur~~((; including pick-up and drop-off locations for offers involving deliveries))~~;

c. A guaranteed minimum amount of network company payment for the offer; ~~((provided, that it does not fall below the minimum network company payment requirements established in Section 8.37.050 for an offer requiring the amount of engaged time and engaged miles provided in the estimate;~~

~~d. The amount of any tip that each customer has indicated they will provide, if the network company's online-enabled application or platform enables customers to tip in advance of facilitating or presenting the offer to the app-based worker;)) ; and~~

~~((e-))~~ d. When performance of an offer requires ~~((a stop or stops))~~ at least one item to be picked up at business establishments, the names of such businesses~~((;))~~ .

~~((f. To the extent it is reasonably ascertainable, information regarding physical labor required to perform services in furtherance of the offer and accessibility at locations where work will be performed, including but not limited to weights of any goods to be handled; numbers of flights of stairs; and availability of elevators, ramps, and other conditions affecting accessibility. The Director shall issue rules~~

regarding the types of information required to be disclosed, the format of provision of the information, and efforts to ascertain the information that would be considered reasonable; and

~~g. To the extent it is reasonably ascertainable, the network company shall make available to the app-based worker information that it has about the unsealed contents of each online order. The Director shall issue rules regarding the types of information required to be disclosed, the format of provision of the information, and efforts to ascertain the information that would be considered reasonable.)~~

2. A network company shall not be held responsible for a violation of subsection 8.37.070.A.1 that is attributable solely to incomplete or inaccurate information provided by another party, provided that the network company made a reasonable effort to obtain complete and accurate information.

3. An on-demand offer shall be made available for at least ~~((two minutes))~~ 45 seconds after the app-based worker has been provided the information described in subsection 8.37.070.A.1.

4. If a network company presents a pre-scheduled offer, or an offer that entails fulfillment of multiple individual online orders, and the network company lacks advance notice of the information in subsection ~~((s))~~ 8.37.070.A.1.b ~~((s))~~ or 8.37.070.A.1.d ~~((, 8.37.070.A.1.e, 8.37.070.A.1.f and 8.37.070.A.1.g))~~ for that offer, the network company shall provide the app-based worker with such information ~~((prior to assigning them work in furtherance of each online order, to the extent))~~ as soon as it is reasonably ascertainable.

B. Within ~~((24))~~ 48 hours of each offer's performance ~~((or within 72 hours after a cancellation by an app-based worker,))~~ that incurs engaged time, a network company shall ~~((transmit))~~ provide an electronic receipt to the app-based worker that contains the following information for each unique offer covered by this Chapter 8.37:

1. The app-based worker's total amount of engaged time;
2. The app-based worker's total amount of engaged miles;
3. The app-based worker's compensation, itemized by:
 - a. Gross network company payment, ~~((as well as the method used to calculate payment,~~

~~including but not limited to amount per minute or amount per mile;~~

~~b. Total incentive(s) and the basis for calculating the incentive(s), if applicable;))~~

including itemized incentive and bonus payments, if applicable;

~~((e)) b. Total amount of compensation from tips;~~

~~((d)) c. Total amount of any deductions, itemized by deduction type; and~~

~~((e)) d. Net compensation((-)) ;~~

4. Itemized fees collected from the app-based worker to access the network company's online-enabled application or platform; and

5. The approximate geographic location or locations of the app-based worker's engaged time and engaged miles(~~(, including pick-up and drop-off locations for offers involving deliveries; and~~

6. Pursuant to rules that the Director may issue, ~~other information that is material and necessary to effectuate the terms of this Chapter 8.37).~~

C. ~~((On a weekly basis))~~ For each network company earnings period, the network company shall provide written notice to the app-based worker that contains the following information for offers covered by this Chapter 8.37 and that incurred engaged time, ~~((which were performed or cancelled with cause, as well as other engagement with the worker platform,))~~ during the prior week:

1. The app-based worker's total amount of engaged time;

2. The app-based worker's total amount of engaged miles;

3. The app-based worker's compensation, itemized by:

a. Gross network company payment, ~~((as well as the method used to calculate payment, including but not limited to amount per minute or amount per mile))~~ including:

~~((b. Total incentives and the basis for calculating the incentives, if applicable;))~~

i. Itemized incentive and bonus payments, if applicable; and

ii. Payment of an additional sum pursuant to subsection 8.37.050.A.2, if

applicable;

~~((e))~~ b. Total amount of compensation from tips;

~~((d))~~ c. Total amount of any deductions, itemized by deduction type; and

~~((e))~~ d. Net compensation; and

4. Total amount of itemized fees collected from the app-based worker to access the network company's online-enabled application or platform(~~(;~~

5. Pursuant to rules that the Director may issue, ~~other information that is material and necessary to effectuate the terms of this Chapter 8.37).~~

~~((D. Within 24 hours of an online order's performance or cancellation with cause, a network company shall transmit an electronic receipt to a paying customer that lists:~~

~~1. The date and time of completion of the online order;~~

~~2. The total amount paid to the network company, itemizing all charges, fees, and customer paid tips. The network company shall clearly designate the amount of tips paid directly to the app-based worker and the amount of charges and fees retained by the company; and~~

~~3. Pursuant to rules that the Director may issue, other information that is material and necessary to effectuate the terms of this Chapter 8.37.))~~

D. A network company may remove approximate geographic location information required under subsection 8.37.070.A and 8.37.070.B or other personally identifiable information from electronic receipts if that information is related to a user account that has been deleted at the request of the account owner. Nothing in this subsection 8.37.070.D shall be construed to prohibit production of the information pursuant to a court order or the Director's lawful request relating to an enforcement action.

E. A network company shall ensure that its customer-facing websites, applications, and platforms do not describe any fees or non-tip charges in a manner that might be reasonably misconstrued as a tip, gratuity, or other payment to the app-based worker. Any interface for accepting customer orders shall clearly reflect the

amount of any tip paid to the app-based worker.

F. A network company shall ensure that all app-based workers have access to the company's tip policy, including but not limited to whether the network company's online-enabled application or platform allows customers to tip in advance of completion of an online order and whether the network company permits customers to modify or remove tips after performance.

~~((G. A network company shall routinely and affirmatively transmit to the Agency such records as required by rules issued by the Director. The Director shall have the authority to require such aggregated or disaggregated records deemed necessary, appropriate, or convenient to administer, evaluate, and enforce the provisions of this Chapter 8.37. The Director may issue rules requiring that aggregated records be produced as a distribution at defined percentiles. The Director may issue data production rules of general applicability as well as rules specific to on-demand companies. In issuing data production rules, the Director shall consider, among other factors, methods to provide workers with information to make informed choices about platforms on which they may seek work and to provide the public with information to assess the impact of network companies.~~

~~1. Records for production may include, but are not limited to:~~

- ~~a. Records regarding the availability of offers facilitated via the network company platform;~~
- ~~b. Records regarding the amount of engaged time and engaged miles;~~
- ~~c. The amount of time that app-based workers must spend working or engaged to wait for work without compensation to perform app-based work;~~
- ~~d. Records regarding the number of app-based workers who logged onto the worker platform, logged on for the first time in the reporting period, or accepted an offer;~~
- ~~e. Per offer or aggregated app-based worker compensation, including but not limited to network company payments, bonuses, incentives, and tips earned from customers; and~~
- ~~f. Any other records that the Director determines are material and necessary to effectuate~~

~~the purposes of this Chapter 8.37.~~

~~2. The Director shall issue rules governing the submission format, security, and privacy protocols relating to the submission of network company records, to the extent permitted by law.~~

~~H.))~~ G. A network company shall notify app-based workers at least 14 days prior to making a material change to how network company payment will be calculated.

Section 5. Section 8.37.080 of the Seattle Municipal Code, enacted by Ordinance 126595, is amended as follows:

8.37.080 Flexibility

A. ~~((An app-based worker has the right to decide when to make themselves available to work and which offers to accept or reject.))~~ A network company shall not ~~((subject))~~ terminate the contract of an app-based worker ~~((to an adverse action, nor institute a policy subjecting an app-based worker to an adverse action,))~~ for ~~((engaging in the following activities))~~:

1. Limiting hours of availability, including but not limited to being logged into the worker platform for limited hours, only at certain hours of the day, or during certain days of the week~~((:))~~ ; or

2. Accepting or rejecting any individual offer, any types of offers, or any number or proportion of offers. An app-based worker may indicate rejection of an offer by declining to respond to the offer. A network company shall ensure that its worker platform enables an app-based worker to communicate a rejection of each offer.

~~((B. A network company shall allow an app-based worker to be logged into the network company's worker platform at any date, time of day, or for any amount of time, except in the following circumstances:~~

~~1. Certain instances of deactivation as defined in rules, or other applicable law.~~

~~2. Limitations on a maximum amount of consecutive work time to protect worker and public safety.))~~

B. If applicable, a network company shall disclose the reasons that an app-based worker may not be

able to log into the network company's worker platform on a particular date or time of day. Examples of reasons include, but are not limited to:

1. The network company uses a system to limit access to the worker platform in periods of low demand in a specified geographic area;
2. The network company provides app-based workers with the opportunity to identify periods of time to receive offers to perform services and no such periods are available; and
3. The network company imposes limitations on the maximum amount of consecutive work time to protect worker and public safety.

C. A network company shall not ~~((subject))~~ terminate the contract of an app-based worker ~~((to an adverse action, nor institute a policy subjecting an app-based worker to an adverse action,))~~ for cancelling their acceptance of an offer with cause. An app-based worker may cancel their acceptance of an offer with cause (i.e., "cancellation with cause") when ~~((any of the following conditions occur))~~:

- ~~((1. Information provided pursuant to subsection 8.37.070.A.1 was substantially inaccurate; provided, that a customer's alteration of a tip amount shall not constitute grounds for cancellation with cause;~~
- ~~2. The app-based worker cannot complete performance of the offer because the customer is not present or fails to respond to communications from the app-based worker, the customer's presence or response is required for the app-based work to complete performance of the offer, and the app-based worker has made attempts to contact and/or wait for the customer in accordance with an applicable network company policy; provided that the no-contact or limited-contact deliveries are not considered to require the end customer's presence;~~
- ~~3. Timely completion of the offer has become impracticable due to an unforeseen obstacle or occurrence;))~~ 1. The app-based worker has picked up items from a pickup location, and the customer changes the dropoff location such that the estimated engaged time to complete performance of the offer, as disclosed to the app-based worker pursuant to subsection 8.37.070.A.1, increases by five minutes or more.

2. The app-based worker experiences a vehicle incident or malfunction that prevents the app-based worker from completing performance of the offer;

3. The app-based worker experiences a medical emergency that prevents the app-based worker from completing performance of the offer;

4. The app-based worker is providing delivery services and all of the items have already been picked up from the pickup location;

5. Completing the offer requires transporting an item weighing more than 50 pounds, unless the network company discloses that the offer contained an item weighing more than 50 pounds prior to the handling of said item;

6. Completing the offer requires transporting an item more than 63 linear inches in length, unless the network company discloses that the offer contained an item more than 63 linear inches in length prior to the handling of said item;

7. Completing the offer requires handling an unsealed container whose contents pose a health risk to the app-based worker, unless the network company discloses that the offer contained the item prior to the app-based worker's acceptance or handling the item should have been reasonably expected based on other information provided about the offer; or

~~((4-))~~ 8. The app-based worker makes a good faith complaint regarding sexual harassment or discrimination that is alleged to have occurred during performance of the offer.

D. For all cancelled offers, network companies shall allow the app-based worker to communicate the reason for cancellation, including but not limited to reasons included in subsection 8.37.080.C, and any additional information or documentation to support or corroborate a reason for cancellation via the worker platform, email, phone, or other channel provided by the network company. ~~((The network company shall review the stated reason for cancellation for a reasonable time of no less than 72 hours before determining, based on clear and convincing evidence, whether an app-based worker cancelled an offer without cause.))~~

E. Nothing in this Section 8.37.080 shall prohibit a network company from taking action based on a pattern of behavior that a reasonable person would conclude constitutes abuse, including where an app-based worker repeatedly cancels offers without providing or submitting to the network company any additional information or documentation to verify or corroborate a reason listed under subsection 8.37.080.C.

Section 6. Section 8.37.100 of the Seattle Municipal Code, enacted by Ordinance 126595, is amended as follows:

8.37.100 Notice of rights

* * *

B. The notice of rights shall provide information on:

1. The right to the applicable minimum (~~((per minute))~~) per-hour amount(~~(;)~~) and per-mile amount for each network company earnings period(~~(, and per offer amount)~~) guaranteed by this Chapter 8.37, including a clear statement of the current applicable amounts;
2. A clear statement as to whether the network company identifies as an on-demand network company, a marketplace network company, or neither, and the corresponding timeframe when engaged time and engaged miles apply for a typical offer from that network company (e.g. upon acceptance and/or upon beginning en route by the app-based worker, a reasonable estimate of engaged time mutually agreed upon, or when the app-based worker begins performance), pursuant to Section 8.37.020;
3. The right to receive the information required to be disclosed by this Chapter 8.37 before accepting an offer and performing services in furtherance of an offer;
4. The right to flexibility in making themselves available for work and accepting, rejecting, or cancelling offers under this Chapter 8.37;
5. The right to be protected from retaliation for exercising in good faith the rights protected by this Chapter 8.37; and
6. The right to file a complaint with the Agency (~~((or bring a civil action))~~) for violation of the

requirements of this Chapter 8.37, including but not limited to a network company's or any person's failure to pay the minimum ~~((per minute))~~ per-hour amount ~~((, or per offer amount and))~~ or per-mile amount, or a network company's or other person's retaliation against an app-based worker or other person for engaging in an activity protected by this Chapter 8.37.

7. The right to a clear statement of the network company's tip policy, including but not limited to whether the network company's online-enabled application or platform allows customers to tip in advance of completion of an online order and whether the network company permits customers to modify or remove tips after performance.

8. The right to a clear statement of the network company's fraudulent use policy pursuant to Section 8.37.090, including where the app-based worker can locate that policy.

C. Network companies shall provide the notice of rights required by subsection 8.37.100.B in an electronic format that is readily accessible to the app-based worker. The notice of rights shall be made available to the app-based worker via smartphone application, email, or online web portal, in English and any language ~~((that the network company knows or has reason to know is the primary language of the app-based worker))~~ in which the Director issues the model notice of rights required by subsection 8.37.100.A. The Director may issue rules governing the form and content of the notice of rights ~~((, the manner of its distribution,))~~ and required languages for its translation.

* * *

Section 7. Section 8.37.110 of the Seattle Municipal Code, enacted by Ordinance 126595, is amended as follows:

8.37.110 Network company records

* * *

D. The Director may not require the production of any record other than through a lawful request relating to an enforcement action.

Section 8. Section 8.37.120 of the Seattle Municipal Code, enacted by Ordinance 126595, is amended as follows:

8.37.120 Retaliation prohibited

* * *

B. No network company or any other person shall ~~((take any adverse action))~~ retaliate against any person because the person has exercised in good faith the rights protected under this Chapter 8.37. Such rights include, but are not limited to, the right to make inquiries about the rights protected under this Chapter 8.37; the right to inform others about their rights under this Chapter 8.37; the right to inform the person's network company, the person's legal counsel, a union or similar organization, or any other person about an alleged violation of this Chapter 8.37; the right to file an oral or written complaint with the Agency ~~((or bring a civil action))~~ for an alleged violation of this Chapter 8.37; the right to cooperate with the Agency in its investigations of this Chapter 8.37; the right to testify in a proceeding under or related to this Chapter 8.37; the right to refuse to participate in an activity that would result in a violation of city, state, or federal law; and the right to oppose any policy, practice, or act that is unlawful under this Chapter 8.37.

* * *

~~((D. It shall be a rebuttable presumption of retaliation if a network company or any other person takes an adverse action against a person within 90 days of the person's exercise of rights protected in this Section 8.37.120. The network company may rebut the presumption with clear and convincing evidence that the adverse action was taken for a permissible purpose.~~

~~E. Proof of retaliation under this Section 8.37.120 shall be sufficient upon a showing that a network company or any other person has taken an adverse action against a person and the person's exercise of rights protected in this Section 8.37.120 was a motivating factor in the adverse action, unless the network company can prove that the action would have been taken in the absence of such protected activity.~~

F.)) D. The protections afforded under this Section 8.37.120 shall apply to any person who mistakenly

but in good faith alleges violations of this Chapter 8.37.

~~((G.))~~ E. A complaint or other communication by any person triggers the protections of this Section 8.37.120 regardless of whether the complaint or communication is in writing or makes explicit reference to this Chapter 8.37.

Section 9. Section 8.37.125 of the Seattle Municipal Code, enacted by Ordinance 126595, is amended as follows:

8.37.125 Rulemaking authority

The Director is authorized to administer and enforce this Chapter 8.37. The Director is authorized to promulgate, revise, or rescind rules and regulations deemed necessary ~~((, appropriate, or convenient))~~ to administer ~~((, evaluate))~~ and enforce the provisions of this Chapter 8.37 pursuant to Chapter 3.02, providing affected entities with due process of law and in conformity with the intent and purpose of this Chapter 8.37. Any rules promulgated by the Director shall have the force and effect of law and may be relied on by network companies, app-based workers, and other parties to determine their rights and responsibilities under this Chapter 8.37. No rule or regulation promulgated by the Director regarding this Chapter 8.37 shall:

A. Expand the requirements of this Chapter 8.37;

B. Impose additional requirements in excess of those expressly set forth in this Chapter 8.37; or

C. Outside of an enforcement action, require the disclosure of confidential, sensitive, or proprietary business information or trade secrets, or personally identifiable information of a customer or worker.

Section 10. Section 8.37.165 of the Seattle Municipal Code, enacted by Ordinance 126595, is amended as follows:

8.37.165 Complaint procedure

* * *

D. The Agency may send notices to the network company and complainant, including but not limited to:

1. Notice of the alleged violation(s). The Agency may send notice to the network company of the

alleged violation(s) of this Chapter 8.37. The Agency shall bear any cost of sending such notice by certified mail or by other means incurring a cost to the Agency. This notice may include but not be limited to:

- a. Statement of the alleged violation(s) of this Chapter 8.37; and
- b. Description of the remedies available to an app-based worker for violation(s) of this

Chapter 8.37;

2. Response from the network company. The Agency may request the network company to send the Agency relevant information to respond to the alleged violation(s) within an identified timeframe.

3. Notice to the complainant of the response from the network company. The Agency may send a notice to the complainant of the response from the network company. This notice to the complainant may include but not be limited to:

- a. The response from the network company, including any enclosures;
- ~~((b. Information on the right to bring a civil action in a court of competent jurisdiction;))~~
- ~~((e.))~~ b. Any other information about the status of the complaint; and
- ~~((d.))~~ c. Information about the navigation program pursuant to Section 8.37.167.

4. Notice of no response. If the Agency receives no response from the network company within the identified timeframe pursuant to subsection 8.37.165.D.2, the Agency may send a notice of no response to the complainant and the network company and may include proof that the Agency previously sent notice of the alleged violation(s) to the network company.

5. Notice of closure. The Agency may send the complainant and network company notice of the Agency's completion of the complaint procedure and/or closure of the case.

* * *

Section 11. Section 8.37.170 of the Seattle Municipal Code, enacted by Ordinance 126595, is amended as follows:

8.37.170 Remedies

* * *

E. The Director is authorized to assess fines for a violation of this Chapter 8.37 and may specify that fines are due to the aggrieved party rather than due to the Agency. The Director is authorized to assess fines as follows:

Violation	Fine
Failure to provide app-based worker with up-front information regarding offers under subsection 8.37.070.A	Up to \$575.31 per aggrieved party
Failure to provide app-based worker with electronic receipts within ((24)) 48 hours of each offer’s performance ((or cancellation with cause)) that incurs engaged time under subsection 8.37.070.B	Up to \$575.31 per aggrieved party
Failure to provide app-based worker with weekly statements under subsection 8.37.070.C	Up to \$575.31 per aggrieved party
((Failure to provide the Agency with records required under subsection 8.37.070.G	Up to \$575.31 per missing record))
Failure to provide app-based worker with at least 14 days of notice of a material change to the network company payment calculation under subsection ((8.37.070.H)) 8.37.070.G	Up to \$575.31 per aggrieved party
Failure to comply with requirements for app-based worker’s right to decide when to work and which offers to accept or reject under subsection 8.37.080.A	Up to \$575.31 per aggrieved party
((Failure to comply with requirements for app-based worker’s right to be logged into the network company’s worker platform under subsection 8.37.080.B	Up to \$575.31 per aggrieved party))
Failure to comply with requirements for app-based worker’s cancellation of acceptance of an offer with cause under subsection 8.37.080.C	Up to \$575.31 per aggrieved party
Failure to provide written notice of rights under Section 8.37.100	Up to \$575.31 per aggrieved party
Failure to retain network company records for three years under subsections 8.37.110.A and 8.37.110.B	Up to \$575.31 per missing record
Failure to comply with prohibitions against retaliation for exercising rights protected under Section 8.37.120	Up to \$1,150.63 per aggrieved party
Failure to provide notice of investigation to app-based workers under subsection 8.37.150.B.2	Up to \$575.31 per aggrieved party
Failure to post or distribute public notice of failure to comply with final order under subsection 8.37.210.A.1	Up to \$575.31 per aggrieved party

For each app-based worker who performs services in Seattle for the network company and for each missing record, the maximum amount that may be imposed in fines in a one-year period for each type of violation for

each app-based worker listed above is \$5,755.31. For each app-based worker who performs services in Seattle for the network company, if a fine for retaliation is issued, the maximum amount that may be imposed for each app-based worker in a one-year period is \$23,020.

* * *

I. For non-willful violations that do not result in unpaid compensation and are not based on retaliation, if the network company is in substantial compliance with this Chapter 8.37, the Director shall provide the network company notice of an alleged violation and a reasonable time period, not fewer than 30 calendar days, to cure the violation and shall not impose any civil penalties, fines, or costs if the network company cures the violation in the reasonable time period. A network company may request additional time to cure for good cause. If the network company fails to cure within the time period allotted, the Director may impose civil penalties, fines, or costs against the network company up to the applicable limit as part of a settlement agreement, Director’s Order, or other enforcement action.

Section 12. Section 8.37.230 of the Seattle Municipal Code, enacted by Ordinance 126595, is repealed:

~~**(8.37.230 Private right of action**~~

~~A. Any person or class of persons that suffers an injury as a result of a violation of this Chapter 8.37, or is the subject of prohibited retaliation under Section 8.37.120, may bring a civil action in a court of competent jurisdiction against the network company or other person violating this Chapter 8.37 and, upon prevailing, may be awarded reasonable attorney fees and costs and such legal or equitable relief as may be appropriate to remedy the violation including, without limitation: the payment of any unpaid compensation plus interest due to the person and liquidated damages in an additional amount of up to twice the unpaid compensation; and a penalty payable to any aggrieved party of up to \$5,755.31 if the aggrieved party was subject to prohibited retaliation. Interest shall accrue from the date the unpaid compensation was first due at 12 percent per annum, or the maximum rate permitted under RCW 19.52.020.~~

~~B. For purposes of this Section 8.37.230, “person” includes any entity a member of which has suffered~~

~~an injury or retaliation, or any other individual or entity acting on behalf of an aggrieved party that has suffered an injury or retaliation.~~

~~C. For purposes of determining membership within a class of persons entitled to bring an action under this Section 8.37.230, two or more app-based workers are similarly situated if they:~~

- ~~1. Performed services in Seattle for the same network company or network companies, whether concurrently or otherwise, at some point during the applicable statute of limitations period,~~
- ~~2. Allege one or more violations that raise similar questions as to liability, and~~
- ~~3. Seek similar forms of relief.~~

~~D. For purposes of subsection 8.37.230.C, app-based workers shall not be considered dissimilar solely because:~~

- ~~1. The app-based workers' claims seek damages that differ in amount, or~~
- ~~2. The job titles of or other means of classifying the app-based workers differ in ways that are unrelated to their claims.~~

~~E. An order issued by the court may include a requirement for a network company to submit a compliance report to the court and to the Agency.))~~

Section 13. This ordinance shall take effect as provided by Seattle Municipal Code Sections 1.04.020 and 1.04.070.

Passed by the City Council the _____ day of _____, 2024, and signed by me in open session in authentication of its passage this _____ day of _____, 2024.

President _____ of the City Council

Approved / returned unsigned / vetoed this ____ day of _____, 2024.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2024.

Scheereen Dedman, City Clerk

(Seal)

SUMMARY and FISCAL NOTE

Department:	Dept. Contact:	CBO Contact:
LEG	Jasmine Marwaha, Karina Bull	N/A

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to app-based worker labor standards; establishing a new compensation scheme for app-based workers with minimum pay requirements and related standards for transparency and flexibility; amending Sections 8.37.020, 8.37.050, 8.37.060, 8.37.070, 8.37.080, 8.37.100, 8.37.110, 8.37.120, 8.37.125, 8.37.165, and 8.37.170 of the Seattle Municipal Code; and repealing Section 8.37.230 of the Seattle Municipal Code.

Summary and Background of the Legislation: Network companies use online-enabled applications or platforms to connect customers with workers, present offers to workers, and/or facilitate the provision of services by workers. Network companies rely on business models that treat app-based workers as independent contractors who are not classified as employees and therefore are not covered by labor standards established by federal, state, and local laws. In 2022, Council passed the App-Based Worker Minimum Payment Ordinance, which established minimum payment, transparency, and flexibility protections for app-based workers who work for network companies.

The ordinance went into effect on January 13, 2024 and is implemented by the Office of Labor Standards (OLS). In response to increased labor costs associated with the new labor standard, some network companies subsequently increased consumer fees. Council has heard from workers, customers, restaurants, and network companies (through public testimony, written correspondence, and other communications) on the immediate impacts of the new requirements, including but not limited to (1) the increased cost of food delivery, (2) fewer orders, (3) longer wait times for workers between orders, and (4) overall reduced earnings by both restaurants and workers. Some workers also reported steady earnings, but with fewer offers.

This legislation would amend the App-Based Worker Minimum Payment Ordinance with the intention of reducing labor costs for network companies, while still guaranteeing a minimum earnings standard for app-based workers (albeit reduced). The list of changes would include, but are not limited to:

1. Pay Standard

- Remove minimum wage adjustments (associated cost factor, associated time factor)
- Reduce per-mile rate and remove the mileage factor
- Resulting minimum payment standard of \$19.97/hour + \$0.35/mile for engaged time while a worker is performing an offer
- Engaged time (paid time) for on-demand offers would be calculated when worker is “en route” instead of upon acceptance, if performance is not expected immediately upon acceptance

- No payment for offers cancelled with cause, unless a customer changes drop-off location after item is picked up, resulting in five or more minutes of additional engaged time
- Pay would be calculated over a network company earnings period, instead of per-offer
- Incentives and bonuses would count toward minimum earnings standard

2. Transparency

- Remove certain requirements from up-front disclosure: delivery locations, accessibility, unsealed contents, and customer tip
- Reduce time to review offer from two minutes to 45 seconds
- Extend time to provide worker receipt from 24 hours to 48 hours after incurring engaged time
- Remove certain requirements from worker receipt: method used to calculate payment and pick-up/drop-off locations for deliveries
- Eliminate requirements for receipts to customer
- Eliminate OLS’s ability to require affirmative records production from companies for purposes of administration, evaluation, and enforcement

3. Flexibility

- Remove prohibition on a network company taking “adverse action” against a worker for lower offer acceptance rate or limited availability, and permit other actions up to termination of the worker’s contract for such reasons.
- Allow the network company to limit worker access to the app, if the network company discloses the reason
- Narrow and specify the list of reasons a worker can cancel an offer with cause (and therefore not be terminated from the app for cancellation)

4. Enforcement Provisions

- Modify anti-retaliation protections, eliminating presumptions that would otherwise establish retaliation
- Modify OLS rulemaking authority, clarifying scope of permissible rules
- Eliminate private right of action
- Establish a cure period for certain “non-willful” violations, which would prevent OLS from assessing penalties, fines, or other costs for those violations

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project?

Yes No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation have financial impacts to the City?

Yes No

Amending the App-Based Worker Minimum Payment Ordinance would likely have financial impacts for OLS, as the office could incur additional costs to revise rules, outreach materials, and

enforcement procedures. To a lesser extent, there could be impacts on the City Attorney’s Office for advising OLS on revised rules and enforcement procedures.

Central Staff is prepared to work with OLS and the City Budget Office to develop estimates of these costs, including the impact of additional work on OLS’s existing programs and priorities, whether the costs are short- or long-term, and whether the costs could be absorbed within OLS’s existing budget authority.

In the 2024 Adopted Budget, OLS received about \$493,000 to implement the existing App-Based Worker Minimum Payment Ordinance. Of this amount, \$50,000 was intended to support an outreach campaign, including ad placements, translated informational materials, trainings, and contracted partnerships with local organizations to reach community members with culturally competent and linguistically appropriate services. The remaining amount, \$443,000, continued funding for three positions that were added in the 2023 Adopted Budget: (1) Administrative Staff Assistant; (2) Data Analyst; and (3) Policy Analyst.

To better understand financial implications, Central Staff will request information on the status of outreach campaign expenditures to determine the amount of funds that have already been spent or obligated under contract(s) and the extent to which OLS could reshape the outreach campaign within their existing budget authority to address amended requirements. Central Staff will also request information on the body of work for the three positions to get a better understanding of whether the positions could absorb additional work associated with the proposed amendments. However, it is unclear whether there will be time for Central Staff to receive and analyze this information prior to Council voting on this legislation.

Financial impacts are not yet known; Central Staff is prepared to work with OLS and CBO to develop estimates on potential costs and position changes to complete the below chart.

Expenditure Change (\$); General Fund	2024	2025 est.	2026 est.	2027 est.	2028 est.
Expenditure Change (\$); Other Funds	2024	2025 est.	2026 est.	2027 est.	2028 est.

Revenue Change (\$); General Fund	2024	2025 est.	2026 est.	2027 est.	2028 est.
Revenue Change (\$); Other Funds	2024	2025 est.	2026 est.	2027 est.	2028 est.

Number of Positions	2024	2025 est.	2026 est.	2027 est.	2028 est.
Total FTE Change	2024	2025 est.	2026 est.	2027 est.	2028 est.

3.d. Other Impacts

Does the legislation have other financial impacts to The City of Seattle, including direct or indirect, one-time or ongoing costs, that are not included in Sections 3.a through 3.c? If so, please describe these financial impacts. N/A

If the legislation has costs, but they can be absorbed within existing operations, please describe how those costs can be absorbed. The description should clearly describe if the absorbed costs are achievable because the department had excess resources within their existing budget or if by absorbing these costs the department is deprioritizing other work that would have used these resources.

Central Staff is prepared to work with OLS and CBO to understand if/how any additional costs could be absorbed within existing operations.

Please describe any financial costs or other impacts of *not* implementing the legislation. If this legislation is not implemented, OLS will continue to administer the App-Based Worker Minimum Payment Ordinance as enacted and within the office's existing operations. Notably, this legislation is intended to address the reported negative impacts of such requirements on workers, restaurants, customers, and network companies. More information is necessary for Central Staff to forecast the implications of *not* implementing the legislation on these entities.

4. OTHER IMPLICATIONS

a. Please describe how this legislation may affect any departments besides the originating department.

This legislation is Council-generated. Impacts on other departments include: OLS's implementation of amendments; the City Attorney Office's responses to legal referrals from OLS; and the Hearing Examiner's responses to requests for hearings on appeals from respondents and aggrieved parties.

b. Does this legislation affect a piece of property? If yes, please attach a map and explain any impacts on the property. Please attach any Environmental Impact Statements, Determinations of Non-Significance, or other reports generated for this property.

No.

c. Please describe any perceived implication for the principles of the Race and Social Justice Initiative.

i. How does this legislation impact vulnerable or historically disadvantaged communities? How did you arrive at this conclusion? In your response please consider impacts within City government (employees, internal programs) as well as in the broader community.

The City's Race and Social Justice Initiative works toward eliminating racial disparities and achieving racial equity in Seattle. Black, Indigenous, and other People of Color face unique barriers to economic insecurity and disproportionately work in low-wage jobs with insecure working conditions. Black and Latinx workers are overrepresented among

app-based workers, comprising almost 42 percent of app-based workers but less than 29 percent of the overall labor force. Many restaurants using app-based delivery services are small businesses owned by individuals or families in low-income and historically disenfranchised communities. Customers, including those with disabilities, may depend on app-based workers to provide essential services, such as delivery of prepared food and groceries.

This legislation intends to address reports of negative impacts of the App-Based Worker Minimum Payment Ordinance, a labor standard covering 40,000 app-based workers that was approved by Council in 2022 and became effective on January 13, 2024.

This legislation includes agreed-upon amendments advanced by [Drive Forward](#) (gig worker organization) and several covered network companies. The intention of these amendments is to reduce costs for customers, increase orders to restaurants, and improve pay for a growing workforce that is disproportionately comprised of BIPOC workers.

More information is necessary for Central Staff to understand the current impacts of the App-Based Worker Minimum Payment Ordinance and forecast implications of the proposed amendments.

ii. Please attach any Racial Equity Toolkits or other racial equity analyses in the development and/or assessment of the legislation.

N/A

iii. What is the Language Access Plan for any communications to the public?

OLS would create and distribute model notices of rights in English and other languages. Network companies would provide workers with a notice of rights (via smartphone application, email, or online web portal) in English and any language included in the OLS model notices.

Additionally, OLS has existing contracts with community and business organizations to provide culturally competent and language-specific outreach on the City's labor standards to low-income workers and small businesses. While there is not an established language access plan for informing the public about this legislation, Central Staff is prepared to work with OLS to determine if existing contracts, or the funds dedicated for the outreach campaign, could be used for such purposes.

d. Climate Change Implications

i. Emissions: How is this legislation likely to increase or decrease carbon emissions in a material way? Please attach any studies or other materials that were used to inform this response.

N/A

- ii. **Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle’s resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.**

N/A

- e. **If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program’s desired goal(s)? What mechanisms will be used to measure progress towards meeting those goals?**

During enforcement actions, OLS would have authority to require network company records and could use these records to determine whether individual companies are complying with the ordinance and evaluate progress toward meeting the ordinance’s policy goals.

OLS posts information on outreach and enforcement efforts on its [on-line, interactive dashboard](#). OLS could use the same metrics publicized for other labor standards (e.g., number of inquiries, number of investigations, and amounts of remedies) for this legislation.

5. CHECKLIST

Please click the appropriate box if any of these questions apply to this legislation.

- Is a public hearing required?**
- Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required?**
- If this legislation changes spending and/or revenues for a fund, have you reviewed the relevant fund policies and determined that this legislation complies?**
- Does this legislation create a non-utility CIP project that involves a shared financial commitment with a non-City partner agency or organization?**
If yes, please review requirements in Resolution 31203 for applicability and complete and attach “Additional risk analysis and fiscal analysis for non-utility partner projects” form.

6. ATTACHMENTS

List Summary Attachments (if any):

Summary Attachment 1 – Ordinance 126595 – App-Based Worker Minimum Payment Ordinance

CITY OF SEATTLE
ORDINANCE 126595
COUNCIL BILL 120294

AN ORDINANCE relating to app-based worker labor standards; establishing a compensation scheme for app-based workers with minimum pay requirements and related standards for transparency and flexibility; amending Sections 3.02.125, 3.15.000, and 6.208.020 of the Seattle Municipal Code; and adding a new Title 8 and Chapter 8.37 to the Seattle Municipal Code.

WHEREAS, an estimated 40,000 app-based workers work in Seattle, including those who are Black, Indigenous, and other People of Color (BIPOC), immigrants, workers with disabilities, LGBTQ+ workers, and single parents; and

WHEREAS, the community depends on app-based workers to provide valuable services, but network companies often pay app-based workers subminimum wages despite the promise of good wages, flexibility, and accessibility; and

WHEREAS, the definitions of “employee” and “employer” in local, state, and federal laws are broad, but network companies rely on business models that treat app-based workers as “independent contractors,” thereby creating barriers for app-based workers to access employee protections such as minimum wage, unemployment benefits, workers’ compensation, and paid family and medical leave; and

WHEREAS, the U.S. Bureau of Labor Statistics (BLS) data show that Black workers account for 23 percent of app-based workers performing in-person work, higher than their overall share of employment (12 percent), and Latinx workers account for 19 percent of app-based workers performing in-person work, higher than their overall share of employment (17 percent); and

1 WHEREAS, Black and Latinx workers are overrepresented among app-based workers,
2 comprising almost 42 percent of app-based workers but less than 29 percent of the overall
3 labor force, and are disproportionately deprived of core employee protections when
4 network companies treat them as independent contractors; and

5 WHEREAS, BIPOC workers face unique barriers to economic insecurity and disproportionately
6 must accept low-wage, unsafe, and insecure working conditions; and

7 WHEREAS, BIPOC workers have long been heavily concentrated in exploitative industries; and

8 WHEREAS, the City is committed to ending racial disparities and achieving racial equity in
9 Seattle; and

10 WHEREAS, the City intends to address the inequities of app-based work by ensuring that such
11 workers earn at least the City’s minimum wage plus reasonable expenses, receive
12 transparent information on job offers and pay, and exercise the flexibility promised by
13 network companies; and

14 WHEREAS, the City intends to retain the current definitions of worker classification under
15 Seattle’s labor standards and does not intend to create a new classification of workers
16 distinct from employees or independent contractors; and

17 WHEREAS, the City intends to ensure that all workers can benefit from the protections of
18 Seattle’s labor standards; and

19 WHEREAS, the City is a leader on wage, labor, and workforce practices that improve workers’
20 lives, support economic security, and contribute to a fair, healthy, and vibrant economy;
21 and

1 WHEREAS, the Office of Labor Standards will consult with and consider input from
2 stakeholders, including network companies, app-based workers, and worker
3 organizations in the rulemaking process.; and

4 WHEREAS, establishing labor standards for app-based workers requires appropriate action by
5 the City Council; NOW, THEREFORE,

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

7 Section 1. The City Council (“Council”) finds and declares that:

8 A. App-based work is a growing source of income for workers in Seattle and across the
9 country.

10 B. In the exercise of The City of Seattle’s police powers, the City is granted authority to
11 pass regulations designed to protect and promote public health, safety, and welfare.

12 C. This ordinance protects and promotes public health, safety, and welfare by
13 establishing a compensation scheme for app-based workers with minimum pay requirements and
14 related standards for transparency and flexibility.

15 D. Numerous studies, including but not limited to studies by the Economic Policy
16 Institute, Center for American Progress, and the Brookings Institution, show that minimum
17 payment and other labor standards benefit employers and hiring entities by improving worker
18 performance, reducing worker turnover, and thereby improving productivity and the quality of
19 the services provided by workers, including app-based workers.

20 E. Many Seattle workers, including app-based workers, cannot fully participate in the
21 community’s dynamic civic life or pursue its myriad educational, cultural, and recreational
22 opportunities because they struggle to meet their households’ most basic needs.

1 F. The National Employment Law Project reports that instituting minimum pay
2 requirements can confer critical income gains for workers and begin to reverse decades of
3 growing pay inequality between the most underpaid workers and workers receiving close to the
4 median wage, particularly along racial and gender lines.

5 G. Transparent information on job opportunities, along with the flexibility to determine
6 hours of availability and which offers to accept, reject, or cancel with cause, allows workers to
7 make informed decisions on how and when to earn their income without fear of financial penalty
8 or other adverse actions.

9 H. Requiring disclosure of information and records on worker compensation and the
10 nature of network company charges supports efforts to verify compliance with pay requirements.

11 I. Establishing minimum pay and pay-related labor standards promotes the general
12 welfare, health, and prosperity of Seattle by ensuring that workers have stable incomes and can
13 better support and care for their families and fully participate in Seattle’s civic, cultural, and
14 economic life.

15 J. These labor standards also benefit the Seattle economy by increasing app-based worker
16 earnings and thereby boosting consumer spending in Seattle and benefiting the economy overall.

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

18 **TITLE 8 LABOR STANDARDS**

19 Section 3. A new Chapter 8.37 is added to the Seattle Municipal Code as follows:

20 **Chapter 8.37 APP-BASED WORKER MINIMUM PAYMENT**

21 **8.37.010 Short title**

22 This Chapter 8.37 shall constitute the “App-Based Worker Minimum Payment Ordinance” and
23 may be cited as such.

1 **8.37.020 Definitions**

2 For purposes of this Chapter 8.37:

3 “Acceptance” means the initial communication from an app-based worker to a network
4 company that the app-based worker intends to perform services in furtherance of an offer,
5 including but not limited to indicating acceptance through the worker platform.

6 “Adverse action” means reducing compensation; garnishing tips or gratuities; temporarily
7 or permanently denying or limiting access to work, incentives, or bonuses; offering less desirable
8 work; terminating; deactivating; threatening; penalizing; retaliating; engaging in unfair
9 immigration-related practices; filing a false report with a government agency; or otherwise
10 discriminating against any person for any reason prohibited by Section 8.37.120. “Adverse
11 action” for an app-based worker may involve any aspect of the app-based worker’s work,
12 including compensation, work hours, volume, and frequency of offers made available,
13 desirability and compensation rates of offers made available, responsibilities, or other material
14 change in the terms and conditions of work or in the ability of an app-based worker to perform
15 work. “Adverse action” also includes any action by the network company or a person acting on
16 the network company’s behalf that would dissuade a reasonable person from exercising any right
17 afforded by this Chapter 8.37.

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

19 “Aggrieved party” means an app-based worker or other person who suffers tangible or
20 intangible harm due to a network company’s or other person’s violation of this Chapter 8.37.

21 “App-based worker” means a person who has entered into an agreement with a network
22 company governing the terms and conditions of use of the network company’s worker platform
23 or a person affiliated with and accepting offers to perform services for compensation via a

1 network company’s worker platform. For purposes of this Chapter 8.37, at any time, but not
2 limited to, when an app-based worker is logged into the network company’s worker platform, the
3 worker is considered an app-based worker.

4 “Application dispatch” means technology that allows customers to directly request
5 dispatch of app-based workers for provision of services and/or allows app-based workers or
6 network companies to accept offers to perform services for compensation and payments for
7 services via the internet using interfaces, including but not limited to website, smartphone, and
8 tablet applications.

9 “Associated cost factor” means the additional percentage of the minimum wage
10 equivalent rate that reasonably compensates app-based workers for the non-mileage expenses
11 that are necessary to conduct app-based work, which include but are not limited to the following:

- 12 1. Employer-side payroll taxes that app-based workers must pay;
- 13 2. Cost of paid family and medical leave insurance;
- 14 3. Cost of state-provided unemployment insurance;
- 15 4. Cost of workers’ compensation insurance;
- 16 5. Business taxes that app-based workers must pay;
- 17 6. Business licensing fees that app-based workers must pay; and
- 18 7. Cost of miscellaneous expenses such as purchase of cellular phones, data plans,

19 and other equipment required for work.

20 “Associated mileage factor” means the additional percentage of the mileage rate that
21 reasonably compensates app-based workers for miles traveled without compensation that are
22 necessary to conduct app-based work, which may include but is not limited to the following:

1 1. Miles traveled after completing performance of an offer, to relocate to locations
2 where additional offers are likely to be available or to return to the starting location; and/or

3 2. Miles traveled to locations for rest breaks, meal breaks, restroom access, and
4 administrative needs.

5 “Associated time factor” means the additional percentage of the minimum wage
6 equivalent rate that reasonably compensates app-based workers for the time that app-based
7 workers spend working or engaged to wait for work without compensation to perform app-based
8 work, including but not limited to the following:

- 9 1. Reviewing offers;
- 10 2. Communicating with network companies and customers;
- 11 3. Relocating in anticipation of future offers;
- 12 4. Conducting administrative tasks; and
- 13 5. Taking rest breaks.

14 “Cancellation with cause” means cancellation of a previously accepted offer by an app-
15 based worker for reasons identified in subsection 8.37.080.C.

16 “Cancellation without cause” means cancellation or incomplete performance of a
17 previously accepted offer by an app-based worker without a given reason, or for a reason not
18 listed in subsection 8.37.080.C.

19 “City” means The City of Seattle.

20 “Compensation” means the total amount of payment owed to an app-based worker by
21 reason of performing work facilitated or presented by the network company, including but not
22 limited to network company payments, bonuses, incentives, and tips earned from customers.

1 “Creative services or works” means labor that results in or contributes to the creation of
2 original works, as well as the works resulting from such labor. The term “creative services or
3 works” includes but is not limited to fiction and non-fiction writing, art, photography, graphic
4 design, marketing, and related consulting services.

5 “Customer” means a paying customer and/or recipient of an online order.

6 “Director” means the Director of the Office of Labor Standards or the Director’s
7 designee.

8 “Engaged miles” means miles traveled during engaged time in a vehicle that the network
9 company does not own and maintain, or miles traveled during engaged time in a vehicle leased
10 by the network company or its agent to the app-based worker.

11 “Engaged time” means the period of time in which an app-based worker performs
12 services in furtherance of an offer facilitated or presented by a network company or participates
13 in any training program required by a network company. Engaged time shall apply as described
14 below:

15 1. If an offer is being facilitated or presented by an on-demand network company,
16 or is an on-demand offer, “engaged time” begins upon the app-based worker’s acceptance of the
17 offer and ends upon the app-based worker’s completing performance of the offer, cancellation of
18 the offer by the network company or customer, or cancellation with cause of the app-based
19 worker’s acceptance of the offer pursuant to subsection 8.37.080.C.

20 2. In all other circumstances, “engaged time” begins when the app-based worker
21 begins performance of the offer or when the app-based worker reports to a location designated in
22 the offer. Engaged time ends upon the app-based worker’s completing performance of the offer,

1 cancellation of the offer by the network company or customer, or cancellation with cause of the
2 app-based worker's acceptance of the offer pursuant to subsection 8.37.080.C.

3 4. Offers ending in a cancellation without cause by an app-based worker shall not
4 incur any engaged time.

5 The Director may issue rules on "engaged time" for (a) offers with non-compensable
6 time, such as sleep time or other periods of off-duty time; or (b) offers with periods of time when
7 the worker is not completely relieved of the duty to perform services and cannot use the time
8 effectively for their own purposes.

9 "Eating and drinking establishment" means "eating and drinking establishment" as
10 defined in Section 23.84A.010.

11 "Food processing" means "food processing" as defined in Section 23.84A.012.

12 "Franchise" means an agreement by which:

13 1. A person is granted the right to engage in the business of offering, selling, or
14 distributing goods or services under a marketing plan prescribed or suggested in substantial part
15 by the grantor or its affiliate;

16 2. The operation of the business is substantially associated with a trademark,
17 service mark, trade name, advertising, or other commercial symbol designated, owned by, or
18 licensed by the grantor or its affiliate; and

19 3. The person pays, agrees to pay, or is required to pay, directly or indirectly, a
20 franchise fee.

21 "Front pay" means the compensation an app-based worker would earn or would have
22 earned if reinstated to their former position.

1 “Hearing Examiner” means the official appointed by the City Council and designated as
2 the Hearing Examiner under Chapter 3.02 or that person’s designee (e.g., Deputy Hearing
3 Examiner or Hearing Examiner Pro Tem).

4 “Incentive” means a sum of money paid to an app-based worker in addition to the
5 guaranteed minimum network company payment for an offer, upon completion of specific tasks
6 presented by the network companies, including but not limited to completing performance of a
7 certain number of offers, completing performance of a certain number of consecutive offers,
8 completing performance of an offer subject to a price multiplier or variable pricing policy,
9 making oneself available to accept offers in a particular geographic location during a specified
10 period of time, or recruiting new app-based workers.

11 “Marketplace network company” means a network company primarily engaged in
12 facilitating or presenting pre-scheduled offers in which (a) the application or platform
13 enables the prospective customer and app-based worker to exchange information about the
14 scope and details of services to be performed, prior to the customer placing the online order
15 for those services or the app-based worker accepting the offer; (b) the app-based worker sets
16 their own rates; and (c) the network company does not monitor offers by mileage or time.
17 On-demand network companies and companies that primarily provide delivery services are
18 not marketplace network companies.

19 When determining whether a network company is “primarily engaged in facilitating or
20 presenting pre-scheduled offers in which (a) the application or platform enables the prospective
21 customer and app-based worker to exchange information about the scope and details of services
22 to be performed, prior to the customer placing the online order for those services or the app-
23 based worker accepting the offer; (b) the app-based worker sets their own rates; and (c) the
24 network company does not monitor offers by mileage or time” the Agency may consider any

1 number of factors, including but not limited to the following examples: number of pre-scheduled
2 offers relative to the network company’s overall offers; how app-based worker rates are set; what
3 information regarding offer mileage or offer time a network company knows before, during, or
4 after performance of an offer; information from app-based workers performing offers through the
5 application or platform; marketing or promotional materials from the network company; or other
6 public statements from representatives of the network company.

7 “Minimum wage equivalent rate” means the per-minute equivalent of the “hourly
8 minimum wage” established for Schedule 1 employers in Chapter 14.19. In 2022, the “hourly
9 minimum wage” established for Schedule 1 employers in Chapter 14.19 is \$17.27 and the
10 resultant minimum wage equivalent rate is \$0.288.

11 “Network company” means an organization, whether a corporation, partnership, sole
12 proprietor, or other form, operating in Seattle, that uses an online-enabled application or
13 platform, such as an application dispatch system, to connect customers with app-based workers,
14 present offers to app-based workers through a worker platform, and/or facilitate the provision of
15 services for compensation by app-based workers.

16 1. The term “network company” includes any such entity or person acting directly
17 or indirectly in the interest of a network company in relation to the app-based worker.

18 2. The term “network company” excludes:

19 a. An entity offering services that enable individuals to schedule
20 appointments with and/or process payments to users, when the entity neither engages in
21 additional intermediation of the relationships between parties to such transactions nor engages in
22 any oversight of service provision; or

1 b. An entity operating digital advertising and/or messaging platforms,
2 when the entity neither engages in intermediation of the payments or relationships between
3 parties to resulting transactions nor engages in any oversight of service provision.

4 c. An entity that meets the definition of “transportation network company”
5 as defined by RCW 46.04.652.

6 d. An entity that meets the definition of “for hire vehicle company” or
7 “taxicab association” as defined in Section 6.310.110.

8 A company that meets the definition of network company in this subsection and
9 does not fall within any of the exclusions contained in this subsection is subject to this Chapter
10 8.37.

11 “Network company payment” means the amount owed to an app-based worker by reason
12 of performing services in furtherance of an offer facilitated or presented by the network
13 company, including but not limited to payment for providing services and/or commissions, or
14 participating in any training program required by a network company.

15 “Offer” means one or more online orders presented to an app-based worker as one
16 opportunity to perform services for compensation that the app-based worker may accept or
17 reject.

18 1. An opportunity to perform services for compensation includes but is not limited
19 to an opportunity described via a worker platform as a shift, a period of time to be spent engaged
20 in service provision, a continuous period of time in which the app-based worker must make
21 themselves available to perform services, or any other continuous period of time when the worker
22 is not completely relieved of the duty to perform the service(s), and such a period of time shall
23 be considered as one offer.

1 2. The term “offer” includes pre-scheduled offers and on-demand offers.

2 “On-demand network company” means a network company that is primarily engaged in
3 facilitating or presenting on-demand offers to app-based workers.

4 1. The term “on-demand network company” includes but is not limited to a
5 network company operating in Seattle that is primarily engaged in facilitating or presenting on-
6 demand offers to app-based workers for delivery services from one or more of the following: (a)
7 eating and drinking establishments, (b) food processing establishments, (c) grocery stores, or (d)
8 any facility supplying groceries or prepared food and beverages for an online order.

9 2. When determining whether a network company is “primarily engaged in
10 facilitating or presenting on-demand offers to app-based workers,” the Agency may consider any
11 number of factors, including but not limited to the following examples: number of on-demand
12 offers relative to the network company’s overall offers; information from app-based workers;
13 marketing or promotional materials from the network company; or other public statements from
14 representatives of the network company.

15 “On-demand offer” means an offer facilitated or presented by a network company to an
16 app-based worker that requires performance to be initiated within two hours of acceptance (i.e.,
17 an offer that is not a prescheduled offer).

18 “Online order” means an order for services that is placed through an online-enabled
19 application or platform, such as an application dispatch system, and that is facilitated by a
20 network company or presented by a network company for its own benefit. The Director may
21 issue rules further defining the definition of “online order” and the types of transactions excluded
22 from this definition. The term “online order” does not include the following transactions:

23 1. Sale or rental of products or real estate;

1 2. Payment in exchange for a service subject to professional licensure that has
2 been listed by the Director pursuant to this Section 8.37.020;

3 3. Payment in exchange for services wholly provided digitally;

4 4. Payment in exchange for creative services or works;

5 5. Transportation Network Company (TNC) dispatched trips. For purposes of this
6 subsection, “TNC dispatched trips” mean the provision of transportation by a driver for a
7 passenger through the use of a transportation network company's application dispatch system ;
8 and

9 6. Transportation provided by taxicabs or for-hire vehicles, as defined in Chapter
10 6.310.

11 “Operating in Seattle” means, with respect to a network company, facilitating or
12 presenting offers to provide services for compensation using an online-enabled application or
13 platform, such as an application dispatch system, to any app-based worker, where such services
14 are performed in Seattle.

15 “Paying customer” means a person or entity placing an online order via a network
16 company’s online-enabled application or platform.

17 “Perform services in Seattle” means activities, conducted by an app-based worker in
18 furtherance of an offer, that occur within the geographic boundaries of Seattle.

19 1. The term “perform services in Seattle” includes any time spent on a
20 commercial stop in Seattle that is related to the provision of delivery or other services associated
21 with an offer.

22 2. The term “perform services in Seattle” does not include stopping for refueling,
23 stopping for a personal meal or errands, or time spent in Seattle solely for the purpose of

1 travelling through Seattle from a point of origin outside Seattle to a destination outside Seattle
2 with no commercial stops in Seattle.

3 “Pre-scheduled offer” means an offer that is facilitated or presented by a network
4 company to an app-based worker at least two hours prior to when the app-based worker is
5 required to initiate performance.

6 “Rate of inflation” means 100 percent of the annual average growth rate of the bi-
7 monthly Seattle-Tacoma-Bellevue Area Consumer Price Index for Urban Wage Earners and
8 Clerical Workers, termed CPI-W, for the 12-month period ending in August; provided that the
9 percentage increase shall not be less than zero.

10 “Respondent” means the network company or any person who is alleged or found to have
11 committed a violation of this Chapter 8.37.

12 “Service subject to professional licensure” means a service that legally requires
13 authorization or certification for a regulatory purpose for an individual to engage in the service
14 as an occupation, trade, or business. The Director shall issue rules that establish a list of
15 professional licenses indicative of occupations or trades in which workers possess significant
16 bargaining power and influence over their compensation and conditions of work. In establishing
17 this list, the Director shall consider, at a minimum, the licensing requirements of the Washington
18 State Department of Licensing, the Washington State Bar Association, and the Washington
19 Medical Commission.

20 “Standard mileage rate” means the current standard mileage rate established by the
21 United States Internal Revenue Service (IRS) for calculation of the costs of operating an
22 automobile. This mileage rate is adjusted annually by the IRS. For example, the 2022 mileage
23 rate is \$0.585.

1 “Tips” means a verifiable sum to be presented by a customer as a gift or gratuity in
2 recognition of some service performed for the customer by the app-based worker receiving the
3 tip.

4 “Unsealed” means loose items or items in packaging that have the potential to open, spill,
5 or otherwise expose an app-based worker to its contents, including but not limited to delivery
6 bags, boxes, or other containers designed to allow customers to transport hot food or groceries to
7 their homes. The term “unsealed” does not include individual items pre-packaged into a bag,
8 box, or other container that is then sealed in a manner designed to keep its contents securely
9 contained, inaccessible, and out of view of the app-based worker.

10 “Worker platform” means the worker-facing application dispatch system software or any
11 online-enabled application service, website, or system, used by an app-based worker, that
12 enables the arrangement of services for compensation.

13 “Written” or “in writing” means a printed or printable communication in physical or
14 electronic format including a communication that is transmitted through email, text message, or a
15 computer system, or is otherwise sent or maintained electronically, including via the worker
16 platform.

17 **8.37.030 App-based worker coverage**

18 A. An app-based worker is covered by this Chapter 8.37 if the app-based worker
19 performs services in Seattle facilitated or presented by a network company covered by this
20 Chapter 8.37.

21 1. If an app-based worker begins engaged time in Seattle, the requirements of this
22 Chapter 8.37 apply, regardless of where the app-based worker terminates performance of the
23 offer.

1 2. If an app-based worker begins engaged time outside of Seattle, the
2 requirements of this Chapter 8.37 apply only for the portion of services that occur within Seattle.

3 B. An app-based worker who is a covered employee under Chapter 14.19 for a covered
4 network company, or a covered employee under Chapter 14.19 for a customer of an online order,
5 is not a covered app-based worker under this Chapter 8.37.

6 **8.37.040 Network company coverage**

7 A. For the purposes of this Chapter 8.37, covered network companies are limited to those
8 that facilitate work performed by 250 or more app-based workers worldwide regardless of where
9 those workers perform work, including but not limited to chains, integrated enterprises, or
10 franchises associated with a franchise or network of franchises that facilitate work performed by
11 250 or more app-based workers worldwide in aggregate.

12 B. To determine the number of app-based workers performing work for the current
13 calendar year:

14 1. The calculation is based upon the average number per calendar week of app-
15 based workers who worked for compensation during the preceding calendar year for any and all
16 weeks during which at least one app-based worker worked for compensation. For network
17 companies that did not have any app-based workers during the preceding calendar year, the
18 number of app-based workers counted for the current calendar year is calculated based upon the
19 average number per calendar week of app-based workers who worked for compensation during
20 the first 90 calendar days of the current year in which the network company engaged in business.

21 2. All app-based workers who worked for compensation shall be counted,
22 including but not limited to:

23 a. App-based workers who are not covered by this Chapter 8.37;

1 b. App-based workers who worked in Seattle; and

2 c. App-based workers who worked outside Seattle.

3 C. Separate entities that form an integrated enterprise shall be considered a single
4 network company under this Chapter 8.37. Separate entities will be considered an integrated
5 enterprise and a single network company under this Chapter 8.37 where a separate entity controls
6 the operation of another entity. The factors to consider in making this assessment include but are
7 not limited to:

8 1. Degree of interrelation between the operations of multiple entities;

9 2. Degree to which the entities share common management;

10 3. Centralized control of labor relations;

11 4. Degree of common ownership or financial control over the entities; and

12 5. Use of a common brand, trade, business, or operating name.

13 D. For the purposes of this Chapter 8.37, covered network companies do not include any
14 company that meets the definition of a marketplace network company.

15 **8.37.050 Minimum network company payment**

16 A. For each offer resulting in engaged time or engaged miles, a network company shall
17 compensate app-based workers, and/or ensure app-based workers receive, at least the equivalent
18 of a minimum network company payment that is the greater of either:

19 1. The minimum per-minute amount for engaged time under subsection
20 8.37.050.B.1 plus the minimum per-mile amount for engaged miles under subsection
21 8.37.050.B.2; or

22 2. The minimum per-offer amount under subsection 8.37.050.B.4.

23 B. Minimum network company payment calculation

1 1. Per-minute amount. For each minute of engaged time, a network company
2 shall compensate app-based workers, and/or ensure that app-based workers receive, at least the
3 equivalent of the total of the minimum wage equivalent rate multiplied by the associated cost
4 factor multiplied by the associated time factor. In 2022, the per-minute amount is \$0.38. On the
5 effective date of this Chapter 8.37, and on January 1 of each year thereafter, the per-minute
6 amount shall be increased to reflect any adjustment(s) to the minimum wage equivalent rate,
7 associated cost factor, or associated time factor. The Agency shall determine the per-minute
8 amount and file a schedule of such amount with the City Clerk.

9 a. Associated cost factor. The associated cost factor is 1.12.

10 b. Associated time factor. The associated time factor is 1.17.

11 2. Per-mile amount. For each engaged mile traveled, a network company shall
12 compensate app-based workers, and/or ensure that app-based workers receive, at least the
13 equivalent of the standard mileage rate multiplied by the associated mileage factor, which is
14 1.10. In 2022, the per-mile amount is \$0.64. On the effective date of this Chapter 8.37, and on
15 January 1 of each year thereafter, the per-mile amount shall be increased annually to reflect any
16 adjustment(s) to the standard mileage rate or associated mileage factor. The Agency shall
17 determine the per-mile amount and file a schedule of such amount with the City Clerk.

18 3. The calculations described in this subsection 8.37.050.B are expressed in
19 equation form as:

$$\begin{aligned} & \text{(Engaged minutes x minimum wage equivalent rate} \\ & \quad \text{x associated cost factor x associated time factor)} \\ & + \text{(engaged miles x standard mileage rate x associated mileage factor)} \\ & = \text{minimum network company payment per offer.} \end{aligned}$$

24 The established current rates and factors result in the following calculation for the
25 required minimum network company payment:

$$\begin{aligned} & (\text{Engaged minutes} \times \$0.288 \times 1.12 \times 1.17) \\ & + (\text{Engaged miles} \times \$0.585 \times 1.10) \\ & = \$0.38/\text{minute} + \$0.64/\text{mile}. \end{aligned}$$

4 4. Per-offer amount. For each offer resulting in engaged time or engaged miles, a
5 network company shall compensate app-based workers a minimum per-offer amount of at least
6 \$5. The Director may issue rules excluding certain offers from payment of the minimum per-
7 offer amount under subsection 8.37.050.B.4, including but not limited to on-demand offers
8 cancelled by the customer within a grace period of not more than five minutes after acceptance.

9 a. Effective January 1, 2024, the minimum per-offer amount paid to an
10 app-based worker shall be increased on a percentage basis to reflect the rate of inflation and
11 calculated to the nearest cent on January 1 of each year thereafter. The Agency shall determine
12 the amount and file a schedule of such amount with the City Clerk.

13 5. Application of minimum network company payment requirements.

14 a. A minimum network company payment shall be provided for any offer
15 resulting in engaged time and engaged miles by the app-based worker, offers cancelled by a
16 customer or the network company, and offers for which acceptance was cancelled with cause by
17 the app-based worker pursuant to subsection 8.37.080.C.

18 b. If an app-based worker accepts a new offer during performance of a
19 previously accepted offer, and both offers are facilitated or presented by the same network
20 company, engaged time and engaged miles accrued during any period of time in which
21 performance of the offers overlaps shall be subject to the minimum compensation requirements
22 for a single offer under this subsection 8.37.050.B.

23 C. Adjustment of the associated cost factor, associated time factor, and associated
24 mileage factor

1 1. Adjustment of the associated cost factor. Beginning three years after the
2 effective date of this Chapter 8.37, the Director by rule may adjust the associated cost factor
3 every three years; provided, that this adjustment shall not result in reduction of the associated
4 cost factor below 1.12. In adjusting the associated cost factor, the Director shall consider relevant
5 and available sources of data, which may include but are not limited to: app-based worker
6 surveys; data provided by network companies; data provided by app-based workers; data
7 provided by customers; data from other jurisdictions; data available through academic, policy, or
8 community-based organizations; public testimony; and stakeholder interviews. The Director may
9 consider the non-exhaustive list of factors that comprise the “associated cost factor” as defined in
10 Section 8.37.020, as well as any other factor the Director determines is necessary to further the
11 purposes of this Chapter 8.37. The Agency shall file a schedule of any adjustment(s) to the
12 associated cost factor with the City Clerk.

13 2. Adjustment to the associated time factor. Beginning three years after the
14 effective date of this Chapter 8.37, the Director by rule may adjust the associated time factor
15 every three years; provided, that this adjustment shall not result in reduction of the associated
16 time factor below 1.17. In adjusting the associated time factor, the Director shall consider
17 relevant and available sources of data, which may include but are not limited to: app-based
18 worker surveys; data provided by network companies; data provided by app-based workers; data
19 provided by customers; data from other jurisdictions; data available through academic, policy, or
20 community-based organizations; public testimony provided; and stakeholder interviews. The
21 Director may consider the non-exhaustive list of factors that comprise the “associated time
22 factor” as defined in Section 8.37.020, as well as any other factor the Director determines is

1 necessary to further the purposes of this Chapter 8.37. The Agency shall file a schedule of any
2 adjustment(s) to the associated time factor with the City Clerk.

3 3. Adjustment to the associated mileage factor. Beginning three years after the
4 effective date of this Chapter 8.37, the Director by rule may adjust the associated mileage factor
5 every three years; provided, that this adjustment shall not result in reduction of the associated
6 mileage factor below 1.10. In adjusting the associated mileage factor, the Director shall consider
7 relevant and available sources of data, which may include but are not limited to: app-based
8 worker surveys; data provided by network companies; data provided by app-based workers; data
9 provided by customers; data from other jurisdictions; data available through academic, policy, or
10 community-based organizations; public testimony provided; and stakeholder interviews. The
11 Director may consider the non-exhaustive list of factors that comprise the “associated mileage
12 factor” as defined in Section 8.37.020, as well as any other factor the Director determines is
13 necessary to further the purposes of this Chapter 8.37. The Agency shall file a schedule of any
14 adjustment(s) to the associated mileage factor with the City Clerk.

15 D. Deductions

16 1. A network company may only deduct compensation when the app-based
17 worker expressly authorizes the deduction in writing and does so in advance for a lawful purpose
18 for the benefit of the app-based worker. Any such authorization by an app-based worker must be
19 voluntary and knowing.

20 2. Neither the network company nor any person acting in the interest of the
21 network company may derive any financial profit or benefit from any of the deductions under
22 this subsection 8.37.050.D. For the purposes of this subsection 8.37.050.D, reasonable interest
23 charged by the network company, or any person acting in the interest of a network company, for

1 a loan or credit extended to the app-based worker is not considered to be of financial benefit to
2 the network company, or any person acting in the interest of a network company.

3 **8.37.060 Tip and incentive compensation**

4 A. Tips

5 1. A network company shall pay to its app-based workers all tips and gratuities.

6 2. Tips paid to an app-based worker are in addition to, and may not count

7 towards:

8 a. The app-based worker's minimum network company payment under
9 Section 8.37.050;

10 b. A guaranteed minimum amount of network company payment for an
11 offer, as described in Section 8.37.070, regardless of whether the guaranteed minimum amount
12 exceeds the minimum network company payment owed to the app-based worker;

13 c. Any incentive presented to the app-based worker; or

14 d. Any amount of compensation presented to the app-based worker in
15 exchange for the performance of services.

16 B. Incentives paid to an app-based worker are in addition to, and may not count towards,
17 the app-based worker's minimum network company payment under Section 8.37.050.

18 **8.37.070 Network company transparency**

19 A. Right to up-front information regarding offers

20 1. A network company shall provide, and/or ensure a customer provides, an app-
21 based worker the following information when facilitating or presenting an offer:

1 a. A reasonable estimate of the engaged time required to complete
2 performance of the offer and, if applicable, the range of time in which the offer can be
3 completed;

4 b. A reasonable estimate of the engaged miles required to complete
5 performance of the offer and the approximate geographic location or locations where work in
6 furtherance of the offer will occur, including pick-up and drop-off locations for offers involving
7 deliveries;

8 c. A guaranteed minimum amount of network company payment for the
9 offer; provided, that it does not fall below the minimum network company payment requirements
10 established in Section 8.37.050 for an offer requiring the amount of engaged time and engaged
11 miles provided in the estimate;

12 d. The amount of any tip that each customer has indicated they will
13 provide, if the network company's online-enabled application or platform enables customers to
14 tip in advance of facilitating or presenting the offer to the app-based worker;

15 e. When performance of an offer requires a stop or stops at business
16 establishments, the names of such businesses;

17 f. To the extent it is reasonably ascertainable, information regarding
18 physical labor required to perform services in furtherance of the offer and accessibility at
19 locations where work will be performed, including but not limited to weights of any goods to be
20 handled; numbers of flights of stairs; and availability of elevators, ramps, and other conditions
21 affecting accessibility. The Director shall issue rules regarding the types of information required
22 to be disclosed, the format of provision of the information, and efforts to ascertain the
23 information that would be considered reasonable; and

1 g. To the extent it is reasonably ascertainable, the network company shall
2 make available to the app-based worker information that it has about the unsealed contents of
3 each online order. The Director shall issue rules regarding the types of information required to be
4 disclosed, the format of provision of the information, and efforts to ascertain the information that
5 would be considered reasonable.

6 2. A network company shall not be held responsible for a violation of subsection
7 8.37.070.A.1 that is attributable solely to incomplete or inaccurate information provided by
8 another party, provided that the network company made a reasonable effort to obtain complete
9 and accurate information.

10 3. An on-demand offer shall be made available for at least two minutes after the
11 app-based worker has been provided the information described in subsection 8.37.070.A.1.

12 4. If a network company presents a pre-scheduled offer, or an offer that entails
13 fulfillment of multiple individual online orders, and the network company lacks advance notice
14 of the information in subsections 8.37.070.A.1.b, 8.37.070.A.1.d, 8.37.070.A.1.e, 8.37.070.A.1.f
15 and 8.37.070.A.1.g for that offer, the network company shall provide the app-based worker with
16 such information prior to assigning them work in furtherance of each online order, to the extent it
17 is reasonably ascertainable.

18 B. Within 24 hours of each offer's performance, or within 72 hours after a cancellation
19 by an app-based worker, a network company shall transmit an electronic receipt to the app-based
20 worker that contains the following information for each unique offer covered by this Chapter
21 8.37:

- 22 1. The app-based worker's total amount of engaged time;
- 23 2. The app-based worker's total amount of engaged miles;

- 1 3. The app-based worker’s compensation, itemized by:
 - 2 a. Gross network company payment, as well as the method used to
 - 3 calculate payment, including but not limited to amount per minute or amount per mile;
 - 4 b. Total incentive(s) and the basis for calculating the incentive(s), if
 - 5 applicable;
 - 6 c. Total amount of compensation from tips;
 - 7 d. Total amount of any deductions, itemized by deduction type; and
 - 8 e. Net compensation.
- 9 4. Itemized fees collected from the app-based worker to access the network
- 10 company’s online-enabled application or platform;
- 11 5. The approximate geographic location or locations of the app-based worker’s
- 12 engaged time and engaged miles, including pick-up and drop-off locations for offers involving
- 13 deliveries; and
- 14 6. Pursuant to rules that the Director may issue, other information that is material
- 15 and necessary to effectuate the terms of this Chapter 8.37.
- 16 C. On a weekly basis, the network company shall provide written notice to the app-based
- 17 worker that contains the following information for offers covered by this Chapter 8.37 and which
- 18 were performed or cancelled with cause, as well as other engagement with the worker platform,
- 19 during the prior week:
 - 20 1. The app-based worker’s total amount of engaged time;
 - 21 2. The app-based worker’s total amount of engaged miles;
 - 22 3. The app-based worker’s compensation, itemized by:

1 a. Gross network company payment, as well as the method used to
2 calculate payment, including but not limited to amount per minute or amount per mile;

3 b. Total incentives and the basis for calculating the incentives, if
4 applicable;

5 c. Total amount of compensation from tips;

6 d. Total amount of any deductions, itemized by deduction type;

7 e. Net compensation

8 4. Total amount of itemized fees collected from the app-based worker to access
9 the network company's online-enabled application or platform;

10 5. Pursuant to rules that the Director may issue, other information that is material
11 and necessary to effectuate the terms of this Chapter 8.37.

12 D. Within 24 hours of an online order's performance or cancellation with cause, a
13 network company shall transmit an electronic receipt to a paying customer that lists:

14 1. The date and time of completion of the online order;

15 2. The total amount paid to the network company, itemizing all charges, fees, and
16 customer-paid tips. The network company shall clearly designate the amount of tips paid directly
17 to the app-based worker and the amount of charges and fees retained by the company; and

18 3. Pursuant to rules that the Director may issue, other information that is material
19 and necessary to effectuate the terms of this Chapter 8.37.

20 E. A network company shall ensure that its customer-facing websites, applications, and
21 platforms do not describe any fees or non-tip charges in a manner that might be reasonably
22 misconstrued as a tip, gratuity, or other payment to the app-based worker. Any interface for

1 accepting customer orders shall clearly reflect the amount of any tip paid to the app-based
2 worker.

3 F. A network company shall ensure that all app-based workers have access to the
4 company's tip policy, including but not limited to whether the network company's online-
5 enabled application or platform allows customers to tip in advance of completion of an online
6 order and whether the network company permits customers to modify or remove tips after
7 performance.

8 G. A network company shall routinely and affirmatively transmit to the Agency such
9 records as required by rules issued by the Director. The Director shall have the authority to
10 require such aggregated or disaggregated records deemed necessary, appropriate, or convenient
11 to administer, evaluate, and enforce the provisions of this Chapter 8.37. The Director may issue
12 rules requiring that aggregated records be produced as a distribution at defined percentiles. The
13 Director may issue data production rules of general applicability as well as rules specific to on-
14 demand companies. In issuing data production rules, the Director shall consider, among other
15 factors, methods to provide workers with information to make informed choices about platforms
16 on which they may seek work and to provide the public with information to assess the impact of
17 network companies.

18 1. Records for production may include, but are not limited to:

19 a. Records regarding the availability of offers facilitated via the network
20 company platform;

21 b. Records regarding the amount of engaged time and engaged miles;

22 c. The amount of time that app-based workers must spend working or
23 engaged to wait for work without compensation to perform app-based work;

1 d. Records regarding the number of app-based workers who logged onto
2 the worker platform, logged on for the first time in the reporting period, or accepted an offer;

3 e. Per-offer or aggregated app-based worker compensation, including but
4 not limited to network company payments, bonuses, incentives, and tips earned from customers;
5 and

6 f. Any other records that the Director determines are material and
7 necessary to effectuate the purposes of this Chapter 8.37.

8 2. The Director shall issue rules governing the submission format, security, and
9 privacy protocols relating to the submission of network company records, to the extent
10 permitted by law.

11 H. A network company shall notify app-based workers at least 14 days prior to making a
12 material change to how network company payment will be calculated.

13 **8.37.080 Flexibility**

14 A. An app-based worker has the right to decide when to make themselves available to
15 work and which offers to accept or reject. A network company shall not subject an app-based
16 worker to an adverse action, nor institute a policy subjecting an app-based worker to an adverse
17 action, for engaging in the following activities:

18 1. Limiting hours of availability, including but not limited to being logged into the
19 worker platform for limited hours, only at certain hours of the day, or during certain days of the
20 week.

21 2. Accepting or rejecting any individual offer, any types of offers, or any number
22 or proportion of offers. An app-based worker may indicate rejection of an offer by declining to

1 respond to the offer. A network company shall ensure that its worker platform enables an app-
2 based worker to communicate a rejection of each offer.

3 B. A network company shall allow an app-based worker to be logged into the network
4 company's worker platform at any date, time of day, or for any amount of time, except in the
5 following circumstances:

6 1. Certain instances of deactivation as defined in rules, or other applicable law.

7 2. Limitations on a maximum amount of consecutive work time to protect worker
8 and public safety.

9 C. A network company shall not subject an app-based worker to an adverse action, nor
10 institute a policy subjecting an app-based worker to an adverse action, for cancelling their
11 acceptance of an offer with cause. An app-based worker may cancel their acceptance of an offer
12 with cause (i.e., "cancellation with cause") when any of the following conditions occur:

13 1. Information provided pursuant to subsection 8.37.070.A.1 was substantially
14 inaccurate; provided, that a customer's alteration of a tip amount shall not constitute grounds for
15 cancellation with cause;

16 2. The app-based worker cannot complete performance of the offer because the
17 customer is not present or fails to respond to communications from the app-based worker, the
18 customer's presence or response is required for the app-based work to complete performance of
19 the offer, and the app-based worker has made attempts to contact and/or wait for the customer in
20 accordance with an applicable network company policy, provided that the no-contact or limited-
21 contact deliveries are not considered to require the end customer's presence;

22 3. Timely completion of the offer has become impracticable due to an unforeseen
23 obstacle or occurrence; or

1 4. The app-based worker makes a good faith complaint regarding sexual
2 harassment or discrimination that is alleged to have occurred during performance of the offer.

3 D. For all cancelled offers, network companies shall allow the app-based worker to
4 communicate the reason for cancellation, including but not limited to reasons included in
5 subsection 8.37.080.C, via the worker platform. The network company shall review the stated
6 reason for cancellation for a reasonable time of no less than 72 hours before determining, based
7 on clear and convincing evidence, whether an app-based worker cancelled an offer without
8 cause.

9 **8.37.090 Fraudulent use policy**

10 A. A network company may take actions not expressly prohibited in this Chapter 8.37 or
11 other applicable law, which are reasonably necessary to remedy or prevent fraudulent use of the
12 network company’s application or platform. A network company shall provide an app-based
13 worker a written policy and procedure for remedying or preventing fraudulent use (“fraudulent
14 use policy”). The network company’s fraudulent use policy shall include, but not be limited to:

15 1. A description of what actions undertaken by the app-based worker constitute
16 fraudulent use, which may include but not be limited to cancellations without cause;

17 2. The consequences to an app-based worker who is determined to have
18 committed a fraudulent use of the of the network company’s online enabled application or
19 platform;

20 3. The method of notification to the app-based worker that the app-based worker
21 is suspected of committing a fraudulent use of the network company’s online enabled application
22 or platform;

1 4. An opportunity, process, and timeline for an app-based worker to appeal a
2 finding of fraudulent use; and

3 5. Pursuant to rules that the Director may issue, other information that is material
4 and necessary to effectuate the terms of this Section 8.37.090.

5 **8.37.100 Notice of rights**

6 A. Network companies shall provide each app-based worker with a written notice of
7 rights established by this Chapter 8.37. The Agency shall create and distribute a model notice of
8 rights in English and other languages.

9 B. The notice of rights shall provide information on:

10 1. The right to the applicable minimum per-minute amount, per-mile amount, and
11 per-offer amount guaranteed by this Chapter 8.37, including a clear statement of the current
12 applicable amounts;

13 2. A clear statement as to whether the network company identifies as an on-
14 demand network company, a marketplace network company, or neither, and the corresponding
15 timeframe when engaged time and engaged miles apply for a typical offer from that network
16 company (e.g. upon acceptance by the app-based worker, a reasonable estimate of engaged time
17 mutually agreed upon, or when the app-based worker begins performance), pursuant to Section
18 8.37.020;

19 3. The right to receive the information required to be disclosed by this Chapter
20 8.37 before accepting an offer and performing services in furtherance of an offer;

21 4. The right to flexibility in making themselves available for work and accepting,
22 rejecting, or cancelling offers under this Chapter 8.37;

1 5. The right to be protected from retaliation for exercising in good faith the rights
2 protected by this Chapter 8.37; and

3 6. The right to file a complaint with the Agency or bring a civil action for
4 violation of the requirements of this Chapter 8.37, including but not limited to a network
5 company's or any person's failure to pay the minimum per-minute amount, per-mile amount, or
6 per-offer amount, and a network company's or other person's retaliation against an app-based
7 worker or other person for engaging in an activity protected by this Chapter 8.37.

8 7. The right to a clear statement of the network company's tip policy, including
9 but not limited to whether the network company's online-enabled application or platform allows
10 customers to tip in advance of completion of an online order and whether the network company
11 permits customers to modify or remove tips after performance.

12 8. The right to a clear statement of the network company's fraudulent use policy
13 pursuant to Section 8.37.090, including where the app-based worker can locate that policy.

14 C. Network companies shall provide the notice of rights required by subsection
15 8.37.100.B in an electronic format that is readily accessible to the app-based worker. The notice
16 of rights shall be made available to the app-based worker via smartphone application, email, or
17 online web portal, in English and any language that the network company knows or has reason to
18 know is the primary language of the app-based worker. The Director may issue rules governing
19 the form and content of the notice of rights, the manner of its distribution, and required
20 languages for its translation.

21 D. Network companies shall file their notice of rights in a written format with the Agency
22 no later than 60 days after the effective date of this Chapter 8.37. The information must also
23 include the registered legal name and trade name of the hiring entity as listed on the hiring

1 entity's Seattle business license tax certificate, and a contact name and information for that
2 hiring entity.

3 **8.37.110 Network company records**

4 A. Network companies shall retain records that document compliance with this Chapter
5 8.37 for each app-based worker.

6 B. Network companies shall retain the records required by subsection 8.37.110.A for a
7 period of three years.

8 C. If a network company fails to retain adequate records required under subsection
9 8.37.110.A, there shall be a presumption, rebuttable by clear and convincing evidence, that the
10 network company violated this Chapter 8.37 for the relevant periods and for each app-based
11 worker for whom records were not retained.

12 **8.37.120 Retaliation prohibited**

13 A. No network company or any other person shall interfere with, restrain, or deny the
14 exercise of, or the attempt to exercise, any right protected under this Chapter 8.37.

15 B. No network company or any other person shall take any adverse action against any
16 person because the person has exercised in good faith the rights protected under this Chapter
17 8.37. Such rights include, but are not limited to, the right to make inquiries about the rights
18 protected under this Chapter 8.37; the right to inform others about their rights under this Chapter
19 8.37; the right to inform the person's network company, the person's legal counsel, a union or
20 similar organization, or any other person about an alleged violation of this Chapter 8.37; the right
21 to file an oral or written complaint with the Agency or bring a civil action for an alleged
22 violation of this Chapter 8.37; the right to cooperate with the Agency in its investigations of this
23 Chapter 8.37; the right to testify in a proceeding under or related to this Chapter 8.37; the right to

1 refuse to participate in an activity that would result in a violation of city, state, or federal law;
2 and the right to oppose any policy, practice, or act that is unlawful under this Chapter 8.37.

3 C. No network company or any other person shall communicate to a person exercising
4 rights protected in this Section 8.37.120, directly or indirectly, the willingness to inform a
5 government worker that the person is not lawfully in the United States, or to report, or to make
6 an implied or express assertion of a willingness to report, suspected citizenship or immigration
7 status of an app-based worker or family member of an app-based worker to a federal, state, or
8 local agency because the app-based worker has exercised a right under this Chapter 8.37.

9 D. It shall be a rebuttable presumption of retaliation if a network company or any other
10 person takes an adverse action against a person within 90 days of the person's exercise of rights
11 protected in this Section 8.37.120. The network company may rebut the presumption with clear
12 and convincing evidence that the adverse action was taken for a permissible purpose.

13 E. Proof of retaliation under this Section 8.37.120 shall be sufficient upon a showing that
14 a network company or any other person has taken an adverse action against a person and the
15 person's exercise of rights protected in this Section 8.37.120 was a motivating factor in the
16 adverse action, unless the network company can prove that the action would have been taken in
17 the absence of such protected activity.

18 F. The protections afforded under this Section 8.37.120 shall apply to any person who
19 mistakenly but in good faith alleges violations of this Chapter 8.37.

20 G. A complaint or other communication by any person triggers the protections of this
21 Section 8.37.120 regardless of whether the complaint or communication is in writing or makes
22 explicit reference to this Chapter 8.37.

1 **8.37.125 Rulemaking authority**

2 The Director is authorized to administer and enforce this Chapter 8.37. The Director is
3 authorized to promulgate, revise, or rescind rules and regulations deemed necessary,
4 appropriate, or convenient to administer, evaluate and enforce the provisions of this Chapter
5 8.37 pursuant to Chapter 3.02, providing affected entities with due process of law and in
6 conformity with the intent and purpose of this Chapter 8.37. Any rules promulgated by the
7 Director shall have the force and effect of law and may be relied on by network companies, app-
8 based workers, and other parties to determine their rights and responsibilities under this Chapter
9 8.37.

10 **8.37.130 Enforcement power and duties**

11 The Agency shall have the power to administer and enforce this Chapter 8.37 and shall have
12 such powers and duties in the performance of these functions as are defined in this Chapter 8.37
13 and otherwise necessary and proper in the performance of the same and provided for by law.

14 **8.37.140 Violation**

15 The failure of any respondent to comply with any requirement imposed on the respondent under
16 this Chapter 8.37 is a violation.

17 **8.37.150 Investigation**

18 A. The Agency shall have the power to investigate any violations of this Chapter 8.37 by
19 any respondent. The Agency may prioritize investigations of workforces that are vulnerable to
20 violations of this Chapter 8.37. The Agency may initiate an investigation pursuant to Director's
21 Rules, including but not limited to situations when the Director has reason to believe that a
22 violation has occurred or will occur, or when circumstances show that violations are likely to
23 occur within a class of network companies or businesses because the workforce contains

1 significant numbers of app-based workers who are vulnerable to violations of this Chapter 8.37
2 or the workforce is unlikely to volunteer information regarding such violations. An investigation
3 may also be initiated through the receipt by the Agency of a report or complaint filed by an app-
4 based worker or other person.

5 B. An app-based worker or other person may report to the Agency any suspected
6 violation of this Chapter 8.37. The Agency shall encourage reporting pursuant to this Section
7 8.37.150 by taking the following measures:

8 1. The Agency shall keep confidential, to the maximum extent permitted by
9 applicable laws, the name and other identifying information of the app-based worker or person
10 reporting the violation. However, with the authorization of such person, the Agency may disclose
11 the app-based worker's or person's name and identifying information as necessary to enforce this
12 Chapter 8.37 or for other appropriate purposes.

13 2. The Agency may require the network company to post or otherwise notify other
14 app-based workers working for the network company that the Agency is conducting an
15 investigation. The network company shall provide the notice of investigation in a form, place,
16 and manner designated by the Agency. The Agency shall create the notice of investigation in
17 English and other languages.

18 3. The Agency may certify the eligibility of eligible persons for "U" Visas under
19 the provisions of 8 U.S.C. § 1184(p) and 8 U.S.C. § 1101(a)(15)(U). This certification is subject
20 to applicable federal law and regulations, and Director's Rules.

21 C. The Agency's investigation shall commence within three years of the alleged
22 violation. To the extent permitted by law, the applicable statute of limitations for civil actions is

1 tolled during any investigation under this Chapter 8.37 and any administrative enforcement
2 proceeding under this Chapter 8.37 based upon the same facts. For purposes of this Chapter 8.37:

3 1. The Agency’s investigation begins on the earlier date of when the Agency
4 receives a complaint from a person under this Chapter 8.37, or when the Agency provides notice
5 to the respondent that an investigation has commenced under this Chapter 8.37.

6 2. The Agency’s investigation ends when the Agency issues a final order
7 concluding the matter and any appeals have been exhausted; the time to file any appeal has
8 expired; or the Agency notifies the respondent in writing that the investigation has been
9 otherwise resolved.

10 D. The Agency’s investigation shall be conducted in an objective and impartial manner.

11 E. The Director may apply by affidavit or declaration in the form allowed under RCW
12 5.50.050 to the Hearing Examiner for the issuance of subpoenas requiring a network company to
13 produce the records required by Section 8.37.110, or for the attendance and testimony of
14 witnesses, or for the production of documents required to be retained under Section 8.37.110, or
15 any other document relevant to the issue of whether any app-based worker or group of app-based
16 workers received the information or other benefits required by this Chapter 8.37, and/or to
17 whether a network company has violated any provision of this Chapter 8.37. The Hearing
18 Examiner shall conduct the review without hearing as soon as practicable and shall issue
19 subpoenas upon a showing that there is reason to believe that: a violation has occurred; a
20 complaint has been filed with the Agency; or circumstances show that violations are likely to
21 occur within a class of businesses because the workforce contains significant numbers of app-
22 based workers who are vulnerable to violations of this Chapter 8.37, the workforce is unlikely to

1 volunteer information regarding such violations, or the Agency has gathered preliminary
2 information indicating that a violation may have occurred.

3 F. A network company that fails to comply with the terms of any subpoena issued under
4 subsection 8.37.150.E in an investigation by the Agency under this Chapter 8.37 before the
5 issuance of a Director’s Order issued pursuant to subsection 8.37.160.C may not use such
6 records in any appeal to challenge the correctness of any determination by the Agency of
7 liability, damages owed, or penalties assessed.

8 G. In addition to other remedies, the Director may refer any subpoena issued under
9 subsection 8.37.150.E to the City Attorney to seek a court order to enforce any subpoena.

10 H. Where the Director has reason to believe that a violation has occurred, the Director
11 may order any appropriate temporary or interim relief to mitigate the violation or maintain the
12 status quo pending completion of a full investigation or hearing, including but not limited to a
13 deposit of funds or bond sufficient to satisfy a good faith estimate of compensation, interest,
14 damages, and penalties due. A respondent may appeal any such order in accordance with Section
15 8.37.180.

16 **8.37.160 Findings of fact and determination**

17 A. Except when there is an agreed-upon settlement, the Director shall issue a written
18 determination with findings of fact resulting from the investigation and statement of whether a
19 violation of this Chapter 8.37 has or has not occurred based on a preponderance of the evidence
20 before the Director.

21 B. If the Director determines that there is no violation of this Chapter 8.37, the Director
22 shall issue a “Determination of No Violation” with notice of an app-based worker’s or other
23 person’s right to appeal the decision, pursuant to Director’s Rules.

1 C. If the Director determines that a violation of this Chapter 8.37 has occurred, the
2 Director shall issue a “Director’s Order” that shall include a notice of violation identifying the
3 violation or violations.

4 1. The Director’s Order shall state with specificity the amounts due under this
5 Chapter 8.37 for each violation, including payment of unpaid compensation, liquidated damages,
6 civil penalties, penalties payable to aggrieved parties, fines, and interest pursuant to Section
7 8.37.170.

8 2. The Director’s Order may specify that civil penalties and fines due to the
9 Agency can be mitigated for respondent’s timely payment of remedy due to an aggrieved party
10 pursuant to subsection 8.37.170.A.4.

11 3. The Director’s Order may specify that civil penalties and fines are due to the
12 aggrieved party rather than due to the Agency.

13 4. The Director’s Order may direct the respondent to take such corrective action
14 as is necessary to comply with the requirements of this Chapter 8.37, including but not limited to
15 monitored compliance for a reasonable time period.

16 5. The Director’s Order shall include notice of the respondent’s right to appeal the
17 decision pursuant to Section 8.37.180.

18 **8.37.165 Complaint procedure**

19 A. The Agency shall have the power to respond to any violations of this Chapter 8.37
20 with a complaint procedure.

21 B. The Agency may initiate a complaint procedure as an alternative enforcement method
22 to an investigation for responding to a report or complaint by any person of a violation of this
23 Chapter 8.37. The Director may issue rules for the complaint procedure, including but not

1 limited to rules to establish the timeline for sending the information required by subsection
2 8.37.165.D, determine the nature and content of information requested from the complainant and
3 network company, and indicate when the Agency may prioritize use of a complaint procedure
4 prior to an investigation or in lieu of an investigation. The Director may also establish other
5 enforcement methods to efficiently resolve violations of this Chapter 8.37.

6 C. The Agency may request the complainant to provide information pursuant to the
7 complaint procedure, including but not limited to:

- 8 1. Contact information for the app-based worker and network company; and
- 9 2. A statement describing the alleged violations of this Chapter 8.37.

10 D. The Agency may send notices to the network company and complainant, including but
11 not limited to:

12 1. Notice of the alleged violation(s). The Agency may send notice to the network
13 company of the alleged violation(s) of this Chapter 8.37. The Agency shall bear any cost of
14 sending such notice by certified mail or by other means incurring a cost to the Agency. This
15 notice may include but not be limited to:

- 16 a. Statement of the alleged violation(s) of this Chapter 8.37; and
- 17 b. Description of the remedies available to an app-based worker for
18 violation(s) of this Chapter 8.37;

19 2. Response from the network company. The Agency may request the network
20 company to send the Agency relevant information to respond to the alleged violation(s) within an
21 identified timeframe.

1 3. Notice to the complainant of the response from the network company. The
2 Agency may send a notice to the complainant of the response from the network company. This
3 notice to the complainant may include but not be limited to:

- 4 a. The response from the network company, including any enclosures;
- 5 b. Information on the right to bring a civil action in a court of competent
6 jurisdiction;
- 7 c. Any other information about the status of the complaint; and
- 8 d. Information about the navigation program pursuant to Section 8.37.167.

9 4. Notice of no response. If the Agency receives no response from the network
10 company within the identified timeframe pursuant to subsection 8.37.165.D.2, the Agency may
11 send a notice of no response to the complainant and the network company and may include proof
12 that the Agency previously sent notice of the alleged violation(s) to the network company.

13 5. Notice of closure. The Agency may send the complainant and network
14 company notice of the Agency's completion of the complaint procedure and/or closure of the
15 case.

16 E. Upon satisfying the requirements of subsections 8.37.165.C and 8.37.165.D, the
17 Agency may close the case.

18 **8.37.167 Navigation program**

19 A. The Agency may establish a navigation program that provides intake and information
20 relating to the provisions of this Chapter 8.37.

21 1. The navigation program may provide a range of information, including but not
22 limited to:

- 23 a. Information on the provisions and procedures of this Chapter 8.37;

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b. General court information, including but not limited to:

1) Information on court procedures for filing civil actions in small claims, district court, and superior court; and

2) Information on obtaining translation and interpretation services, and other courtroom services;

c. A list of organizations that can be used to identify attorneys;

d. Organizations providing outreach and education, and/or legal assistance, to app-based workers;

e. Information about classifying workers as employees or independent contractors; and

f. As determined by the Director, additional information related to the provisions of this Chapter 8.37, other workplace protections, or other resources for resolving workplace issues.

2. The navigation program may include outreach and education to the public on the provisions and procedures of this Chapter 8.37.

3. The navigation program shall not include legal advice from the Agency. However, if the Agency provides information to an app-based worker about a community organization through the navigation program, the community organization is not precluded from providing legal advice.

8.37.170 Remedies

A. The payment of unpaid compensation, liquidated damages of up to twice the amount of unpaid compensation, civil penalties, penalties payable to aggrieved parties, fines, and interest

1 provided under this Chapter 8.37 is cumulative and is not intended to be exclusive of any other
2 available remedies, penalties, fines, and procedures.

3 1. The amounts of all civil penalties, penalties payable to aggrieved parties, and
4 fines contained in this Section 8.37.170 shall be increased annually to reflect the rate of inflation
5 and calculated to the nearest cent on January 1 of each year thereafter. The Agency shall
6 determine the amounts and file a schedule of such amounts with the City Clerk.

7 2. If a violation is ongoing when the Agency receives a complaint or opens an
8 investigation, the Director may order payment of unpaid compensation plus interest that accrues
9 after receipt of the complaint or after the investigation opens and before the date of the Director's
10 Order.

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

13 4. If there is a remedy due to an aggrieved party, the Director may waive part or
14 all civil penalties and fines due to the Agency based on timely payment of the full remedy due to
15 the aggrieved party.

16 a. The Director may waive the total amount of civil penalties and fines due
17 to the Agency if the Director determines that the respondent paid the full remedy due to the
18 aggrieved party within ten days of service of the Director's Order.

19 b. The Director may waive half the amount of civil penalties and fines due
20 to the Agency if the Director determines that the respondent paid the full remedy due to the
21 aggrieved party within 15 days of service of the Director's Order.

1 c. The Director shall not waive any amount of civil penalties and fines due
2 to the Agency if the Director determines that the respondent has not paid the full remedy due to
3 the aggrieved party after 15 days of service of the Director’s Order.

4 5. When determining the amount of liquidated damages, civil penalties, penalties
5 payable to aggrieved parties, and fines due under this Section 8.37.170 for a settlement
6 agreement or Director’s Order, including but not limited to the mitigation of civil penalties and
7 fines due to the Agency for timely payment of remedy due to an aggrieved party under
8 subsection 8.37.170.A.4, the Director may consider:

9 a. The total amount of unpaid compensation, liquidated damages,
10 penalties, fines, and 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 respondent;

15 f. The circumstances of each situation;

16 g. The amount of penalties in similar situations; and

17 h. Pursuant to rules that the Director may issue, other factors that are
18 material and necessary to effectuate the terms of this Chapter 8.37.

19 B. A respondent found to be in violation of this Chapter 8.37 shall be liable for full
20 payment of unpaid compensation due plus interest in favor of the aggrieved party under the
21 terms of this Chapter 8.37, and other equitable relief. If the precise amount of unpaid
22 compensation cannot be determined due to a respondent’s failure to produce records or if a
23 respondent produces records in a manner or form which makes timely determination of the

1 amount of unpaid compensation impracticable, the Director may designate a daily amount for
2 unpaid compensation plus interest in favor of the aggrieved party. The daily amount of unpaid
3 compensation shall be at least the equivalent of payment for eight hours of work at the “hourly
4 minimum wage” rate for Schedule 1 employers under Chapter 14.19. For any violation of this
5 Chapter 8.37, the Director may assess liquidated damages in an additional amount of up to twice
6 the unpaid compensation.

7 C. A respondent found to be in violation of this Chapter 8.37 for retaliation under Section
8 8.37.120 shall be subject to any appropriate relief at law or equity including, but not limited to,
9 reinstatement of the aggrieved party, front pay in lieu of reinstatement with full payment of
10 unpaid compensation plus interest in favor of the aggrieved party under the terms of this Chapter
11 8.37, and liquidated damages in an additional amount of up to twice the unpaid compensation.
12 The Director also shall order the imposition of a penalty payable to the aggrieved party of up to
13 \$5,755.31.

14 D. The Director is authorized to assess civil penalties for a violation of this Chapter 8.37
15 and may specify that civil penalties are due to the aggrieved party rather than due to the Agency.

16 1. For a first violation of this Chapter 8.37, the Director may assess a civil penalty
17 of up to \$575.31 per aggrieved party.

18 2. For a second violation of this Chapter 8.37, the Director shall assess a civil
19 penalty of up to \$1,150.63 per aggrieved party, or an amount equal to ten percent of the total
20 amount of unpaid compensation, whichever is greater.

21 3. For a third or any subsequent violation of this Chapter 8.37, the Director shall
22 assess a civil penalty of up to \$5,755.31 per aggrieved party, or an amount equal to ten percent of
23 the total amount of unpaid compensation, whichever is greater.

1 4. For purposes of this subsection 8.37.170.D, a violation is a second, third, or
 2 subsequent violation if the respondent has been a party to one, two, or more than two settlement
 3 agreements, respectively, stipulating that a violation has occurred; and/or one, two, or more than
 4 two Director’s Orders, respectively, have issued against the respondent in the ten years preceding
 5 the date of the violation; otherwise, it is a first violation.

6 E. The Director is authorized to assess fines for a violation of this Chapter 8.37 and may
 7 specify that fines are due to the aggrieved party rather than due to the Agency. The Director is
 8 authorized to assess fines as follows:

Violation	Fine
Failure to provide app-based worker with up-front information regarding offers under subsection 8.37.070.A	Up to \$575.31 per aggrieved party
Failure to provide app-based worker with electronic receipts within 24 hours of each offer’s performance or cancellation with cause under subsection 8.37.070.B	Up to \$575.31 per aggrieved party
Failure to provide app-based worker with weekly statements under subsection 8.37.070.C	Up to \$575.31 per aggrieved party
Failure to provide the Agency with records required under subsection 8.37.070.G	Up to \$575.31 per missing record
Failure to provide app-based worker with at least 14 days of notice of a material change to the network company payment calculation under subsection 8.37.070.H	Up to \$575.31 per aggrieved party
Failure to comply with requirements for app-based worker’s right to decide when to work and which offers to accept or reject under subsection 8.37.080.A	Up to \$575.31 per aggrieved party
Failure to comply with requirements for app-based worker’s right to be logged into the network company’s worker platform under subsection 8.37.080.B	Up to \$575.31 per aggrieved party
Failure to comply with requirements for app-based worker’s cancellation of acceptance of an offer with cause under subsection 8.37.080.C	Up to \$575.31 per aggrieved party
Failure to provide written notice of rights under Section 8.37.100	Up to \$575.31 per aggrieved party
Failure to retain network company records for three years under subsections 8.37.110.A and 8.37.110.B	Up to \$575.31 per missing record
Failure to comply with prohibitions against retaliation for exercising rights protected under Section 8.37.120	Up to \$1,150.63 per aggrieved party

Violation	Fine
Failure to provide notice of investigation to app-based workers under subsection 8.37.150.B.2	Up to \$575.31 per aggrieved party
Failure to post or distribute public notice of failure to comply with final order under subsection 8.37.210.A.1	Up to \$575.31 per aggrieved party

1 For each app-based worker who performs services in Seattle for the network company and for
2 each missing record, the maximum amount that may be imposed in fines in a one-year period for
3 each type of violation for each app-based worker listed above is \$5,755.31. For each app-based
4 worker who performs services in Seattle for the network company, if a fine for retaliation is
5 issued, the maximum amount that may be imposed for each app-based worker in a one-year
6 period is \$23,020.

7 F. A respondent that willfully hinders, prevents, impedes, or interferes with the Director
8 or Hearing Examiner in the performance of their duties under this Chapter 8.37 shall be subject
9 to a civil penalty of not less than \$1,150.63 and not more than \$5,755.31.

10 G. In addition to the unpaid compensation, penalties, fines, liquidated damages, and
11 interest, the Agency may assess against the respondent in favor of the City the reasonable costs
12 incurred in enforcing this Chapter 8.37, including but not limited to reasonable investigation
13 costs and attorneys' fees. The Director may issue rules on the amounts and contributing factors
14 for assessing reasonable investigation costs and is strongly encouraged to assess such costs in
15 favor of the City to support the Agency's implementation of this Chapter 8.37.

16 H. A respondent that is the subject of a settlement agreement stipulating that a violation
17 has occurred shall count for debarment, or a final order for which all appeal rights have been
18 exhausted, shall not be permitted to bid, or have a bid considered, on any City contract until such
19 amounts due under the final order have been paid in full to the Director. If the respondent is the
20 subject of a final order two times or more within a five-year period, the network company shall

1 not be allowed to bid on any City contract for two years. This subsection 8.37.170.H shall be
2 construed to provide grounds for debarment separate from, and in addition to, those contained in
3 Chapter 20.70 and shall not be governed by that chapter; provided, that nothing in this subsection
4 8.37.170.H shall be construed to limit the application of Chapter 20.70. The Director shall notify
5 the Director of Finance and Administrative Services of all respondents subject to debarment
6 under this subsection 8.37.170.H.

7 **8.37.180 Appeal period and failure to respond**

8 A. An app-based worker or other person who claims an injury as a result of an alleged
9 violation of this Chapter 8.37 may appeal the Determination of No Violation, pursuant to
10 Director's Rules.

11 B. A respondent may appeal the Director's Order, including all remedies issued pursuant
12 to Section 8.37.170, by requesting a contested hearing before the Hearing Examiner in writing
13 within 15 days of service of the Director's Order. If a respondent fails to appeal the Director's
14 Order within 15 days of service, the Director's Order shall be final. If the last day of the appeal
15 period so computed is a Saturday, Sunday, or federal or City holiday, the appeal period shall run
16 until 5 p.m. on the next business day.

17 **8.37.190 Appeal procedure and failure to appear**

18 A. Contested hearings shall be conducted pursuant to the procedures for hearing
19 contested cases contained in Section 3.02.090 and the rules adopted by the Hearing Examiner for
20 hearing contested cases. The hearing shall be conducted de novo and the Director shall have the
21 burden of proving by a preponderance of the evidence that the violation or violations occurred.
22 Upon establishing such proof, the remedies and penalties imposed by the Director shall be
23 upheld unless it is shown that the Director abused discretion. Failure to appear for a contested

1 hearing shall result in an order being entered finding that the respondent committed the violation
2 stated in the Director's Order. For good cause shown and upon terms the Hearing Examiner
3 deems just, the Hearing Examiner may set aside an order entered upon a failure to appear.

4 B. In all contested cases, the Hearing Examiner shall enter an order affirming, modifying,
5 or reversing the Director's Order, consistent with Ordinance 126068.

6 **8.37.200 Appeal from Hearing Examiner order**

7 A. The respondent may obtain judicial review of the decision of the Hearing Examiner by
8 applying for a Writ of Review in the King County Superior Court within 30 days from the date
9 of the decision in accordance with the procedure set forth in chapter 7.16 RCW, other applicable
10 law, and court rules.

11 B. The decision of the Hearing Examiner shall be final and conclusive unless review is
12 sought in compliance with this Section 8.37.200.

13 **8.37.210 Failure to comply with final order**

14 A. If a respondent fails to comply within 30 days of service of any settlement agreement
15 with the Agency, or with any final order issued by the Director or the Hearing Examiner for which
16 all appeal rights have been exhausted, the Agency may pursue, but is not limited to, the following
17 measures to secure compliance:

18 1. The Director may require the respondent to post or distribute public notice of
19 the respondent's failure to comply in a form and manner determined by the Agency.

20 2. The Director may refer the matter to a collection agency. The cost to the City
21 for the collection services will be assessed as costs, at the rate agreed to between the City and the
22 collection agency, and added to the amounts due.

1 3. The Director may refer the matter to the City Attorney for the filing of a civil
2 action in King County Superior Court, the Seattle Municipal Court, or any other court of
3 competent jurisdiction to enforce such order or to collect amounts due. In the alternative, the
4 Director may seek to enforce a Director's Order or a final order of the Hearing Examiner under
5 Section 8.37.190.

6 4. The Director may request that the City's Department of Finance and
7 Administrative Services deny, suspend, refuse to renew, or revoke any business license held or
8 requested by the network company or person until such time as the network company complies
9 with the remedy as defined in the settlement agreement or final order. The City's Department of
10 Finance and Administrative Services shall have the authority to deny, refuse to renew, or revoke
11 any business license in accordance with this subsection 8.37.210.A.4.

12 B. No respondent that is the subject of a final order issued under this Chapter 8.37 shall
13 quit business, sell out, exchange, convey, or otherwise dispose of the respondent's business or
14 stock of goods without first notifying the Agency and without first notifying the respondent's
15 successor of the amounts owed under the final order at least three business days before such
16 transaction. At the time the respondent quits business, or sells out, exchanges, or otherwise
17 disposes of the respondent's business or stock of goods, the full amount of the remedy, as
18 defined in a final order issued by the Director or the Hearing Examiner, shall become
19 immediately due and payable. If the amount due under the final order is not paid by respondent
20 within ten days from the date of such sale, exchange, conveyance, or disposal, the successor shall
21 become liable for the payment of the amount due; provided, that the successor has actual
22 knowledge of the order and the amounts due or has prompt, reasonable, and effective means of
23 accessing and verifying the fact and amount of the order and the amounts due. The successor

1 shall withhold from the purchase price a sum sufficient to pay the amount of the full remedy.
2 When the successor makes such payment, that payment shall be deemed a payment upon the
3 purchase price in the amount paid, and if such payment is greater in amount than the purchase
4 price the amount of the difference shall become a debt due such successor from the network
5 company.

6 **8.37.220 Debt owed The City of Seattle**

7 A. All monetary amounts due under the Director's Order shall be a debt owed to the City
8 and may be collected in the same manner as any other debt in like amount, which remedy shall
9 be in addition to all other existing remedies; provided, that amounts collected by the City for
10 unpaid compensation, liquidated damages, penalties payable to aggrieved parties, or front pay
11 shall be held in trust by the City for the aggrieved party and, once collected by the City, shall be
12 paid by the City to the aggrieved party.

13 B. If a respondent fails to appeal a Director's Order to the Hearing Examiner within the
14 time period set forth in subsection 8.37.180.B, the Director's Order shall be final, and the
15 Director may petition the Seattle Municipal Court, or any court of competent jurisdiction, to
16 enforce the Director's Order by entering judgment in favor of the City finding that the
17 respondent has failed to exhaust its administrative remedies and that all amounts and relief
18 contained in the order are due. The Director's Order shall constitute prima facie evidence that a
19 violation occurred and shall be admissible without further evidentiary foundation. Any
20 certifications or declarations authorized under RCW 5.50.050 containing evidence that the
21 respondent has failed to comply with the order or any parts thereof, and is therefore in default, or
22 that the respondent has failed to appeal the Director's Order to the Hearing Examiner within the
23 time period set forth in subsection 8.37.180.B, and therefore has failed to exhaust the

1 respondent's administrative remedies, shall also be admissible without further evidentiary
2 foundation.

3 C. If a respondent fails to obtain judicial review of an order of the Hearing Examiner
4 within the time period set forth in subsection 8.37.200.A, the order of the Hearing Examiner
5 shall be final, and the Director may petition the Seattle Municipal Court to enforce the Director's
6 Order by entering judgment in favor of the City for all amounts and relief due under the order of
7 the Hearing Examiner. The order of the Hearing Examiner shall constitute conclusive evidence
8 that the violations contained therein occurred and shall be admissible without further evidentiary
9 foundation. Any certifications or declarations authorized under RCW 9A.72.085 containing
10 evidence that the respondent has failed to comply with the order or any parts thereof, and is
11 therefore in default, or that the respondent has failed to avail itself of judicial review in
12 accordance with subsection 8.37.200.A, shall also be admissible without further evidentiary
13 foundation.

14 D. In considering matters brought under subsections 8.37.220.B and 8.37.220.C, the
15 Seattle Municipal Court may include within its judgment all terms, conditions, and remedies
16 contained in the Director's Order or the order of the Hearing Examiner, whichever is applicable,
17 that are consistent with the provisions of this Chapter 8.37.

18 **8.37.230 Private right of action**

19 A. Any person or class of persons that suffers an injury as a result of a violation of this
20 Chapter 8.37, or is the subject of prohibited retaliation under Section 8.37.120, may bring a civil
21 action in a court of competent jurisdiction against the network company or other person violating
22 this Chapter 8.37 and, upon prevailing, may be awarded reasonable attorney fees and costs and
23 such legal or equitable relief as may be appropriate to remedy the violation including, without

1 limitation: the payment of any unpaid compensation plus interest due to the person and
2 liquidated damages in an additional amount of up to twice the unpaid compensation; and a
3 penalty payable to any aggrieved party of up to \$5,755.31 if the aggrieved party was subject to
4 prohibited retaliation. Interest shall accrue from the date the unpaid compensation was first due
5 at 12 percent per annum, or the maximum rate permitted under RCW 19.52.020.

6 B. For purposes of this Section 8.37.230, “person” includes any entity a member of which
7 has suffered an injury or retaliation, or any other individual or entity acting on behalf of an
8 aggrieved party that has suffered an injury or retaliation.

9 C. For purposes of determining membership within a class of persons entitled to bring an
10 action under this Section 8.37.230, two or more app-based workers are similarly situated if they:

11 1. Performed services in Seattle for the same network company or network
12 companies, whether concurrently or otherwise, at some point during the applicable statute of
13 limitations period,

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

15 3. Seek similar forms of relief.

16 D. For purposes of subsection 8.37.230.C, app-based workers shall not be considered
17 dissimilar solely because:

18 1. The app-based workers’ claims seek damages that differ in amount, or

19 2. The job titles of or other means of classifying the app-based workers differ in
20 ways that are unrelated to their claims.

21 E. An order issued by the court may include a requirement for a network company to
22 submit a compliance report to the court and to the Agency.

23 **8.37.233 Waiver**

1 Any waiver by an individual of any provisions of this Chapter 8.37 shall be deemed contrary to
2 public policy and shall be void and unenforceable.

3 **8.37.235 Encouragement of more generous policies**

4 A. Nothing in this Chapter 8.37 shall be construed to discourage or prohibit a network
5 company from the adoption or retention of minimum labor and compensation standards more
6 generous than the one required by this Chapter 8.37.

7 B. Nothing in this Chapter 8.37 shall be construed as diminishing the obligation of the
8 network company to comply with any contract, or other agreement providing more generous
9 minimum labor and compensation standards to an app-based worker than required by this
10 Chapter 8.37.

11 **8.37.240 Other legal requirements—Effect on other laws**

12 A. The provisions of this Chapter 8.37:

13 1. Supplement and do not diminish or replace any other basis of liability or
14 requirement established by statute or common law;

15 2. Shall not be construed to preempt, limit, or otherwise affect the applicability of
16 any other law, regulation, requirement, policy, or standard for minimum labor and compensation
17 requirements, or which extends other protections to app-based workers; and

18 3. Shall not be interpreted or applied so as to create any power or duty in conflict
19 with federal or state law.

20 B. This Chapter 8.37 shall not be construed to preclude any person aggrieved from
21 seeking judicial review of any final administrative decision or order made under this Chapter
22 8.37 affecting such person. Nothing in this Section 8.37.240 shall be construed as restricting an

1 app-based worker’s right to pursue any other remedies at law or equity for violation of the
2 contractor’s rights.

3 C. A network company’s failure to comply with the provisions of this Chapter 8.37 shall
4 not render any contract between the network company and an app-based worker void or
5 voidable.

6 D. No provision of this Chapter 8.37 shall be construed as providing a determination
7 about the legal classification of any individual as an employee or independent contractor.

8 **8.37.250 Severability**

9 The provisions of this Chapter 8.37 are declared to be separate and severable. If any clause,
10 sentence, paragraph, subdivision, section, subsection, or portion of this Chapter 8.37, or the
11 application thereof to any network company, app-based worker, person, or circumstance, is held
12 to be invalid, it shall not affect the validity of the remainder of this Chapter 8.37, or the validity
13 of its application to other persons or circumstances.

14 Section 4. Section 3.02.125 of the Seattle Municipal Code, last amended by Ordinance
15 126283, is amended as follows:

16 **3.02.125 Hearing Examiner filing fees**

17 A. The filing fee for a case before the City Hearing Examiner is \$85, with the following
18 exceptions:

Basis for Case	Fee in dollars
* * *	
All_Gender Restroom Notice of Violation (Section 14.07.040)	No fee
App-Based Worker Minimum Payment Ordinance (Chapter 8.37)	No fee
Cable Communications (Chapter 21.60)	No fee
* * *	

19 * * *

1 Section 5. Section 3.15.000 of the Seattle Municipal Code, last amended by Ordinance
2 126189, is amended as follows:

3 **3.15.000 Office of Labor Standards created—Functions**

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

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

13 A. Promoting labor standards through outreach, education, technical assistance, and
14 training for employees and employers;

15 B. Collecting and analyzing data on labor standards enforcement;

16 C. Partnering with community, businesses, and workers for stakeholder input and
17 collaboration;

18 D. Developing innovative labor standards policy;

19 E. Administering and enforcing labor standards (Title 8), City of Seattle ordinances
20 relating to paid sick and safe time (Chapter 14.16), use of criminal history in employment
21 decisions (Chapter 14.17), minimum wage and minimum compensation (Chapter 14.19), wage
22 and tip compensation requirements (Chapter 14.20), secure scheduling (Chapter 14.22), domestic
23 workers (Chapter 14.23), hotel employees safety protections (Chapter 14.26), protecting hotel

1 employees from injury (Chapter 14.27), improving access to medical care for hotel employees
2 (Chapter 14.28), hotel employees job retention (Chapter 14.29), commuter benefits (Chapter
3 14.30), transportation network company driver deactivation protections (Chapter 14.32),
4 transportation network company driver minimum compensation (Chapter 14.33), and other labor
5 standards ordinances that may be enacted in the future.

6 Section 6. Subsection 6.208.020.A of the Seattle Municipal Code, which section was last
7 amended by Ordinance 126274, is amended as follows:

8 **6.208.020 Denial, revocation of, or refusal to renew business license**

9 A. In addition to any other powers and authority provided under this Title 6, the Director,
10 or the Director's designee, has the power and authority to deny, revoke, or refuse to renew any
11 business license issued under the provisions of this Chapter 6.208. The Director, or the
12 Director's designee, shall notify such applicant or licensee in writing by mail of the denial,
13 revocation of, or refusal to renew the license and on what grounds such a decision was based.
14 The Director may deny, revoke, or refuse to renew any license issued under this Chapter 6.208
15 on one or more of the following grounds:

- 16 1. The license was procured by fraud or false representation of fact.
- 17 2. The licensee has failed to comply with any provisions of this Chapter 6.208.
- 18 3. The licensee has failed to comply with any provisions of Chapters 5.32, 5.35,
19 5.38, 5.39, 5.40, 5.45, 5.46, 5.47, 5.48, 5.50, or 5.52.
- 20 4. The licensee is in default in any payment of any license fee or tax under Title 5
21 or Title 6.
- 22 5. The property at which the business is located has been determined by a court to
23 be a chronic nuisance property as provided in Chapter 10.09.

1 6. The applicant or licensee has been convicted of theft under subsection
2 12A.08.060.A.4 within the last ten years.

3 7. The applicant or licensee is a person subject within the last ten years to a court
4 order entering final judgment for violations of chapters 49.46, 49.48, or 49.52 RCW, or 29
5 U.S.C. 206 or 29 U.S.C. 207, and the judgment was not satisfied within 30 days of the later of
6 either:

7 a. The expiration of the time for filing an appeal from the final judgment
8 order under the court rules in effect at the time of the final judgment order; or

9 b. If a timely appeal is made, the date of the final resolution of that appeal
10 and any subsequent appeals resulting in final judicial affirmation of the findings of violations of
11 chapters 49.46, 49.48, or 49.52 RCW, or 29 U.S.C. 206 or 29 U.S.C. 207.

12 8. The applicant or licensee is a person subject within the last ten years to a final
13 and binding citation and notice of assessment from the Washington Department of Labor and
14 Industries for violations of chapters 49.46, 49.48, or 49.52 RCW, and the citation amount and
15 penalties assessed therewith were not satisfied within 30 days of the date the citation became
16 final and binding.

17 9. Pursuant to relevant provisions in Title 8, subsections 14.16.100.A.4,
18 14.17.075.A, 14.19.100.A.4, 14.20.080.A.4, 14.22.115.A.4, 14.23.115.A.4, 14.26.210.A.4,
19 14.27.210.A.4, 14.28.210.A.4, 14.30.180.A.4, and 14.33.210.A.4, subsection 100.240.A.4 of
20 Ordinance 126091, subsection 100.240.A.4 of Ordinance 126094, and subsection 100.240.A.4 of
21 Ordinance 126274, the applicant or licensee has failed to comply, within 30 days of service of
22 any settlement agreement, with any final order issued by the Director of the Office of Labor
23 Standards, or any final order issued by the Hearing Examiner under Title 8, Chapters 14.16,

1 14.17, 14.19, 14.20, 14.22, 14.23, 14.26, 14.27, 14.28, 14.29, 14.30, and 14.33, Ordinance
2 126091, Ordinance 126094, and Ordinance 126274 for which all appeal rights have been
3 exhausted, and the Director of the Office of Labor Standards has requested that the Director
4 deny, refuse to renew, or revoke any business license held or requested by the applicant or
5 licensee. The denial, refusal to renew, or revocation shall remain in effect until such time as the
6 violation(s) under Title 8, Chapters 14.16, 14.17, 14.19, 14.20, 14.22, 14.23, 14.26, 14.27, 14.28,
7 14.29, 14.30, and 14.33, Ordinance 126091, Ordinance 126094, and Ordinance 126274 are
8 remedied.

9 10. The business is one that requires an additional license under this Title 6 and
10 the business does not hold that license.

11 11. The business has been determined under a separate enforcement process to be
12 operating in violation of law.

13 Section 7. The City Council requests that the Office of Labor Standards report back to
14 Council if it has information indicating that network companies are modifying their business
15 operations after the effective date of this ordinance in order to be classified as a “marketplace
16 network company” and, if significant changes occur, submit to the Public Safety and Human
17 Services Committee, or the Council committee with oversight of the Office of Labor Standards
18 and/or app-based workers, the following:

19 A. any information they have regarding companies modifying their business operations to
20 be classified as a “marketplace network company” and

21 B. recommendations for an accurate definition and regulations for marketplace network
22 companies.

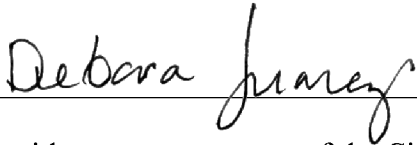
1 Section 8. The City Council intends to consider regulations for minimum payment,
2 transparency, and flexibility for marketplace network companies no later than August 1, 2023.

3 Section 9. Section 3 of this ordinance shall take effect 18 months after the effective date
4 of this ordinance.


5 Section 10. This ordinance shall take effect and be in force 30 days after its approval by
6 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
7 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

8


1 Passed by the City Council the 31st day of May, 2022,
2 and signed by me in open session in authentication of its passage this 31st day of
3 May, 2022.

4 
5 President _____ of the City Council

6 Approved / returned unsigned / vetoed this 13th day of June, 2022.

7 
8 Bruce A. Harrell, Mayor

9 Filed by me this 13th day of June, 2022.

10 
11 Monica Martinez Simmons, City Clerk

12 (Seal)

April 24, 2024

MEMORANDUM

To: Government, Accountability, and Economic Development Committee
From: Jasmine Marwaha and Karina Bull, Analysts; Ben Noble, Director
Subject: CB 120775: App-Based Worker Minimum Payment Revisions Ordinance

On April 25, 2024, the Government, Accountability, and Economic Development Committee (Committee) will discuss [Council Bill \(CB\) 120775](#), the App-Based Worker Minimum Payment (ABWMP) Revisions Ordinance. This memo provides an overview of CB 120775, describes potential impacts, and identifies issues for Councilmembers to consider in reviewing the bill.

Background

Network companies use online-enabled applications or platforms to connect customers with workers, present offers to workers, and/or facilitate the provision of services by app-based workers. App-based workers provide a variety of valued services for the community (e.g., on-demand food delivery, pre-scheduled tasks) in response to offers facilitated or presented by network companies.

Network companies operate on business models that treat app-based workers as independent contractors who are not classified as employees and therefore are not covered by labor standards established by federal, state, and local laws. Network companies also typically use algorithms to manage core aspects of work, such as pay rates, access to the platform, and access to individual offers.¹

In 2022, the Council passed the ABWMP Ordinance, [Ordinance 126595](#), which established minimum payment, transparency, and flexibility protections for app-based workers who work for network companies. The ABWMP Ordinance went into effect on January 13, 2024, and is implemented by the Office of Labor Standards (OLS). Ordinance 126595 is codified as [Chapter 8.37](#) in the Seattle Municipal Code (SMC).

In response to increased costs associated with the new labor standard, some network companies subsequently increased consumer fees. Council has heard from workers, customers, restaurants, and network companies (through public testimony, written correspondence, and other communications) on the immediate impacts of the new requirements, including but not limited to (1) the increased cost of food delivery, (2) fewer orders, (3) longer wait times for workers between orders, and (4) overall reduced earnings by both restaurants and workers. Some workers also reported steady earnings, but with fewer offers.

¹ FTC Policy Statement on Enforcement Related to Gig Work, September 2022, https://www.ftc.gov/system/files/ftc_gov/pdf/Matter%20No.%20P227600%20Gig%20Policy%20Statement.pdf.

CB 120775

CB 120775 would amend the ABWMP Ordinance, SMC 8.37, with the intention of providing a guaranteed minimum rate of compensation for app-based workers, while reducing labor and administrative costs for network companies, and incentivizing network companies to lower their consumer fees. The sponsor’s expectation is that with lower fees the total volume of demand will increase, providing additional economic opportunities and benefits for all involved – app-based workers, restaurants and other comparable businesses, the network companies, and the consumers who use the delivery services. The legislation further amends the transparency, flexibility, and enforcement provisions of the ABWMP Ordinance, with the intent of further reducing costs by easing the regulatory burden on network companies.

Pay Standard

The current ABWMP Ordinance requires a minimum network company payment of \$0.44 per minute and \$0.74 per mile for time spent and miles traveled while performing an offer. These amounts incorporate the current Seattle minimum wage for employers and the Internal Revenue Service (IRS) standard mileage expense rate, as well as multipliers to account for additional expenses and time associated with app-based work, such as payroll taxes (i.e., Social Security, Medicare), on-call time, and rest breaks, among other factors.

CB 120775 would remove the associated cost, time, and mileage factors from the pay standard, and reduce the base mileage rate, resulting in a proposed minimum pay requirement of \$19.97 per hour (or \$0.33 per minute), and \$0.35 per mile for engaged time.² This gross pay requirement intentionally corresponds to Seattle’s current minimum wage for employees. Although, as noted above, app-based workers pay tax obligations and face operational factors that impact their net compensation. The lower mileage rate is intended to reflect the fact that the standard IRS mileage rate may overstate the vehicle costs paid by app-based workers.

Overall, CB 120775 includes the following proposed changes related to pay:

Current requirement	Proposed change
131% minimum wage plus \$0.74 per mile for each offer.	100% minimum wage plus \$0.35 per mile for each offer.
Pay is calculated on a <i>per offer basis</i> , at a minimum of \$5 per offer.	Pay would be calculated <i>over a network company earnings period</i> , and minimum pay per offer would be eliminated.
Any pay incentives and bonuses ³ must be offered on top of the minimum pay standard.	Incentives and bonuses would count toward achieving the minimum payment standard.

² “Engaged time” means the period of time in which an app-based worker performs services in furtherance of an offer facilitated or presented by a network company.

³ Incentives and bonuses refer to additional sums of money paid to an app-based worker upon completion of specific tasks presented by the network companies, including but not limited to completing performance of a certain number of offers, completing performance of a certain number of consecutive offers, completing performance of an offer subject to a price multiplier or variable pricing policy, making oneself available to accept offers in a particular geographic location during a specified period of time, or recruiting new app-based workers.

Current requirement	Proposed change
Offers cancelled “with cause” ⁴ by the app-based worker are paid at the minimum network company payment standard.	No payment for offers cancelled with cause, unless a customer changes drop-off location after item is picked up, resulting in five or more minutes of additional engaged time
Engaged time (paid time) calculated for on-demand offers (where performance is expected within 2 hours of acceptance) begins upon offer acceptance.	Engaged time (paid time) for on-demand offers would be calculated when worker is “en route” ⁵ instead of upon acceptance, if performance is not expected immediately upon acceptance
A network company can make deductions from pay when the worker authorizes the deduction in writing, for a lawful purpose and for the benefit of the worker. Network company cannot derive financial profit from the deduction.	Retains deduction requirements and provides express permission for network company to deduct a fee of up to \$5 if an app-based worker elects to get paid in advance of the end of the earnings period.

Transparency

The law currently requires the network company to present offers to app-based workers with certain up-front information, intended to help workers better assess whether they want to accept or reject the offer. CB 120775 proposes the following changes to up-front disclosure requirements:

- Retain estimate of engaged time, estimated engaged miles, approximate geographic location of work, guaranteed minimum payment for offer, names of businesses for relevant offers; and
- Remove specific pickup and drop-off locations, amount of tip (if already indicated by customer), known information about physical labor requirements and unsealed contents.

In addition to up-front disclosures of the offer, the current law contains receipt and record transparency requirements. CB 120775 proposes the following changes to those requirements:

- Reduce time for app-based worker to review offers from two minutes to 45 seconds;
- Extend time for network companies to provide workers with a receipt from 24 hours to 48 hours after offer performance;
- Remove certain requirements from worker receipts, including the method used to calculate payment and pick-up/drop-off locations for deliveries;

⁴ The current APWMP Ordinance allows an app-based worker to cancel an offer with cause for the following reasons: (1) the offer was substantially inaccurate; (2) the offer cannot be completed because customer is not present or fails to communicate; (3) an unforeseen obstacle or occurrence; or (4) due to sexual harassment or discrimination during performance of the offer.

⁵ “En route” is defined in the legislation as “traveling to the location or locations where work in furtherance of an accepted offer will occur.”

- Permit removal of geographic location of order if information related to a user account that has been deleted at the request of the user;
- Remove requirement to provide customers with a receipt after an online order⁶; and
- Remove OLS's ability to require affirmative records production from companies for purposes of administration, evaluation, and enforcement of the ABWMP Ordinance.

Flexibility

The current law protects an app-based workers' flexibility in their terms of work, including choosing their availability, choosing which offers to accept or reject, and canceling offers with cause without being subjected to "adverse action" by the network company. Prohibited "adverse actions" include: limiting hours of availability, reducing compensation; garnishing tips or gratuities; temporarily or permanently denying or limiting access to work, incentives, or bonuses; offering less desirable work; terminating; deactivating; threatening; penalizing; retaliating; engaging in unfair immigration-related practices; or filing a false report with a government agency.

CB 120775 would remove the definition of adverse action and permit any action by a network company except for terminating a worker's contract from the network company in response to an app-based worker limiting hours of availability, rejecting offers, or cancelling offers with cause.

Additionally, CB 120775 would allow the network company to limit worker access to the app for any reason if the network company discloses the reason to the worker. Currently, a network company cannot limit an app-based worker's access to the company's platform except under certain instances of a worker's deactivation or to limit hours of consecutive work time to protect worker and public safety.

Enforcement Provisions

CB 120775 includes the following changes to the current law's enforcement provisions:

- Modify anti-retaliation protections, eliminating presumptions in [SMC 8.37.120.D and 8.37.120.E](#) that would otherwise establish retaliation;
- Modify OLS rulemaking authority, clarifying the scope of permissible rules;
- Eliminate private right of action, which allows workers additional options for redress if OLS cannot pursue enforcement due to capacity or other reasons; and
- Establish a cure period for certain "non-willful" violations, which would prevent OLS from assessing penalties, fines, or other costs for those violations.

⁶ Requirements for customer receipts currently include the date and time of the order's completion and the total amount paid to the network company, itemizing all charges, fees, and tips.

Issue Identification

For some of the issues identified below, there are multiple options presented to illustrate a range of approaches to a particular issue. Some of these options could be combined and some are mutually exclusive. If a councilmember is interested in bringing an amendment to address one or more of the issues identified below, Central Staff will work to ensure that any proposed amendment addresses the councilmember's policy intent.

1. Network Company Consumer Fees and Non-Economic Regulatory Changes

CB 120775 is intended to lead to reduced consumer fees instituted by network companies by reducing labor and administrative costs for those companies and subsequently address the impacts workers, customers, restaurants, and network companies have raised to the Council through public testimony, written correspondence, and other communications. Reduced fees could increase consumer demand for these services, potentially benefiting restaurants relying on app-based delivery to support their business and price sensitive customers who could have more access to app-based services.

However, even with the proposed amendments, CB 120775 may result in higher costs to operate in Seattle than the network companies faced before the ABWMP Ordinance went into effect. Network companies could still choose to offset the cost of regulation by raising costs and may retain consumer fees. Without additional analysis and access to data from the network companies, Central Staff does not have sufficient information to understand specifically how the current regulations impact labor and administrative costs, and correspondingly how the proposed legislation would result in changes to the costs, demand, and supply of network company services.⁷

Additionally, there is not a clear link between certain proposed changes in CB 120775 and network company costs that led to increased consumer fees. These proposed changes in CB 120775 include, but are not limited to:

- Removing up-front disclosure of tips to workers
- Removing requirements for customer receipt
- Removing affirmative records production for evaluation
- Changing anti-retaliation and enforcement provisions that are standard in other City labor standards. While they are not employees, the existing law purposefully extended these protections to app-based workers.

⁷ Central Staff has reviewed orders on various network company platforms that have incurred vastly different consumer fees that do not seem directly related to labor costs. For example, one order of \$133 worth of food incurred an additional \$52 in total fees. Another delivery order of \$63 with similar distance incurred \$18 in fees. The estimated minimum payment in both those cases would have been approximately \$18-\$19.

Options:

- a. Amend the proposed legislation to only revise economic provisions of the ordinance that can be directly attributed to reducing labor costs per offer;
- b. Delay enacting legislation to conduct a study to examine and model the potential impacts to inform regulations⁸;
- c. Delay enacting legislation to establish and hear recommendations from a stakeholder group comprised of network companies, workers, customers, and restaurants;
- d. Enact the legislation as proposed, and, in addition, conduct a study to monitor the impacts of the regulations with the intention of modifying regulations based on the study findings⁹;
- e. Retain affirmative records production requirement in the current law (see Issue #6) if fees are above a certain percentage of the online order cost, to evaluate the impact of labor standards on consumer fees; or
- f. No change.

2. Worker Earnings

CB 120775 would amend the ABWMP Ordinance with the intention of reducing overall labor and administrative costs for network companies, and incentivizing network companies to lower their consumer fees, while still ensuring a minimum level of compensation for app-based workers. If the legislation achieves its intended impact of reducing consumer fees and thereby increases consumer demand for online orders, the proposed pay standard, although lower than current requirements, has the potential to increase worker earnings as compared to the period before implementation of the ABWMP Ordinance.¹⁰

However, if the premise of the ABWMP Ordinance is that app-based workers should earn wages akin to the minimum wage for employees, then omitting much of the pay for expenses and on-call time could result in net compensation below minimum wage for app-based workers.

The associated cost factor, associated time factor, and associated mileage factor, which are all proposed to be eliminated, were intended to reflect the costs incurred and time spent performing app-based work outside of the time and costs spent actively responding to

⁸ A study could be facilitated by the affirmative production of records requirement in the current law (if it is retained, see Issue #6) and/or funded by separate legislation to amend the 2024 Adopted Budget (e.g., 2024 Mid-year Supplemental Ordinance will be considered in the Select Budget Committee in mid- to late-summer) or additional appropriations in the 2025 Budget funded by projected revenue from the network company fee ([Ordinance 126953](#)).

⁹ *Id.*

¹⁰ A [Working Washington survey](#) administered in 2021 and 2022 found that the average hourly pay for restaurant delivery was \$10.01 per hour for restaurant delivery and \$12.75 per hour for grocery without accounting for non-mileage expenses. Accessed online at [Seattle's App Gap - May 2022.pdf \(dropbox.com\)](#) on April 23, 2024. A [Drive Forward survey](#) administered in 2021 found that pre-tip earnings were around \$15-\$27 per hour and workers earned most of their profit on tips. Accessed online at <https://seattle.legistar.com/View.ashx?M=F&ID=12806686&GUID=7EC40CB5-2D16-48CB-BF90-745FBCA057E1> on April 23, 2024.

offers (e.g., on-call time waiting for offers, “employer-side” payroll taxes and contributions to the Washington state paid family medical leave program, equivalent costs for state unemployment and workers compensation coverage, equipment costs, mileage/time for travelling to rest breaks, and mileage/time for travelling back to hubs to accept offers).

Other jurisdictions compensate app-based workers for expenses and on-call time at rates that are lower than the current ABWMP standard, but significantly higher than CB 120775.

For example, in California, [Proposition 22](#) requires network companies to pay app-based delivery workers 120 percent of the local minimum wage¹¹ for active delivery time, \$0.35 per mile, healthcare subsidies for those working an average of at least 15 hours per week, occupational accident insurance, and automobile insurance.¹²

In New York City (NYC), [local law](#) requires restaurant delivery network companies to pay app-based delivery workers a minimum wage that covers specific expenses and on-call time. The [NYC minimum wage requirement is \\$19.56 per hour for all time a worker is logged into the app](#), an amount that incorporates \$2.33 per hour to account for employer-side payroll taxes, workers compensation, and e-bike costs. Alternatively, NYC allows food delivery apps to pay only for active delivery time, at a rate of \$29.93 per hour of time spent on a delivery.

Options:

- a. Retain the current associated cost factor, associated time factor, associated mileage factor, and/or the IRS standard mileage rate;
- b. Increase the proposed payment standard to cover more worker expenses and on-call time, but at a rate lower than the current law;
- c. Amend definition of “engaged time” to cover all time worked, including on-call time;
- d. Consistent with NYC’s law, provide a pay structure that allows network companies to choose a higher or lower pay standard based on whether they pay for on-call time;
- e. Delay enacting legislation to conduct a study¹³ examining current worker earnings, on-call time, and expenses, which would inform a minimum payment standard that could more assuredly approximate minimum wage accounting for expenses and on-call time;
- f. Enact the legislation as proposed, and, in addition, conduct a study¹⁴ to monitor the impacts of the regulations on worker earnings with the intention of modifying regulations based on the study findings; or
- g. No change.

¹¹ While California’s state minimum wage (\$16.00 per hour) is lower than Seattle, there are local jurisdictions with minimum wages approaching Seattle. For example, West Hollywood’s minimum wage is currently \$19.08 (and the resulting app-based driver minimum wage standard is \$22.90). See [UC Berkeley Labor Center California City and County Current Minimum Wages \(01/01/24\)](https://laborcenter.berkeley.edu/inventory-of-us-city-and-county-minimum-wage-ordinances/#s-2). Accessed online at <https://laborcenter.berkeley.edu/inventory-of-us-city-and-county-minimum-wage-ordinances/#s-2> on April 23, 2024.

¹² Payment for healthcare and insurance is noteworthy as the United States (US) Bureau of Labor Statistics reports that delivery drivers are among workers with the most dangerous occupations in the US (See [Civilian occupations with high fatal work injury rates](#), US Bureau of Labor Statistics, 2022; [Occupational Employment and Wages: 53-3031 Driver/Sales Workers](#), 2023).

¹³ See Footnote 8.

¹⁴ See Footnote 8.

3. Earnings Period and Incentives

CB 120775 would require the minimum payment standard to be met for all engaged time over the course of a network company “earnings period,” rather than for each offer, and allow incentives and bonuses to count toward the minimum pay requirement. These changes would allow network companies to pay workers lower rates for each offer and then true-up payment at the end of each pay period to ensure that they comply with the law. This change could result in reduced labor costs per online order and may lead network companies to reduce consumer fees per offer.

Because CB 120775 would allow, but not require, incentives and bonuses to be used to meet the minimum pay standard over the course of the pay period, workers may not have clarity about whether incentives and bonuses would count above the minimum pay requirement, potentially resulting in less transparency and predictability at the end of the earnings period, and a lower likelihood of incentives and bonuses adding to higher earnings than already required by law.

Options:

- a. Require network companies to meet the minimum payment standard per offer;
- b. Require network companies to pay incentives and bonuses on top of minimum payment; or
- c. No change.

4. Customer Receipts

The current law requires network companies to provide customers a receipt within 24 hours of the completion of the online order, which includes the date and time of the order’s completion and the total amount paid to the network company, itemizing all charges, fees, and tips. This requirement is intended to advance transparency goals regarding fees and charges for the consumer.

The proposed legislation would remove the requirement for customer receipts, which could undermine consumer transparency and make it difficult for a consumer to understand how consumer fees, charges, and tips comprise their total order amount. It is possible that network companies will still provide this information to consumers regardless of the requirement, but the Committee may want to consider retaining requirements for consumer receipts in CB 120775 to provide greater assurances of consumer transparency.

Options:

- a. Retain requirements for customer receipts that currently exist in the law; or
- b. No change

5. Flexibility

The current law prohibits network companies from taking any “adverse action”¹⁵ against app-based workers who limit hours of availability, reject individual offers, or cancel offers with cause. CB 120775 would allow network companies to take any action against workers, up to terminating a contract (i.e., permanently blocking access to the platform), in response to workers exercising flexibility options. This is a broad standard that could reduce app-based workers’ flexibility to set their own working conditions as independent contractors.

Moreover, the [App-Based Worker Deactivation Rights Ordinance](#) (SMC Chapter 8.40), which will go into effect January 1, 2025, prohibits network companies from instituting a policy that would deactivate a worker for exercising these flexibility options. Deactivation includes restricting access to the platform, but is not necessarily a permanent termination of the worker’s contract.¹⁶ The Committee may want to consider harmonizing CB 120775 with Chapter 8.40, to prohibit a network company from deactivating workers who limit their availability or their offer acceptances. Such harmonization would simplify outreach and enforcement of this provision.

Additionally, CB 120775 proposes to allow network companies to block a worker’s access to the platform for any reason, provided they disclose the reason to the worker. This could allow network companies to increase the efficiency of app-based workers by reducing on-call time and increasing the number of offers completed by workers who are able to access the platform, thereby increasing overall earnings. However, when combined with the other proposed changes to the flexibility provisions, this could result in workers being penalized for limiting their availability or acceptance of offers. The Committee may wish to consider clarifying that a network company can restrict an app-based worker from accessing the app only for reasons unrelated to the actions of the app-based worker. This clarification would also provide consistency with the App-Based Worker Deactivation Rights Ordinance.

Options:

- a. Retain requirement in current law that prohibits network companies from taking an “adverse action” against an app-based worker for exercising flexibility options;
- b. Prohibit network companies from “deactivating” an app-based worker for exercising flexibility options, harmonizing requirements with SMC Chapter 8.40;
- c. Clarify that a network company may only restrict app-based workers from logging into the app for reasons unrelated to a worker’s acceptance rate or availability, consistent with the SMC 8.40; or
- d. No change.

¹⁵ As discussed earlier in this memo, currently prohibited “adverse actions” include: limiting hours of availability, reducing compensation; garnishing tips or gratuities; temporarily or permanently denying or limiting access to work, incentives, or bonuses; offering less desirable work; terminating; deactivating; threatening; penalizing; retaliating; engaging in unfair immigration-related practices; or filing a false report with a government agency.

¹⁶ “Deactivation” means the blocking of an app-based worker’s access to the worker platform, changing an app-based worker’s status from eligible to accept offers to perform services to ineligible, or other material restriction in access to the worker platform that is affected by a network company. Deactivation does not include temporary suspensions lasting less than 48 hours when the worker platform is unavailable to an app-based worker due to reasons unrelated to the action or behavior of the app-based worker and that are clearly communicated to the app-based worker at the time of the temporary suspension. Such reasons include but are not limited to: technology, software, or network outages; account access or security issues; routine maintenance; and inclement weather endangering the safety of app-based workers in performing services in Seattle. [See SMC 8.40.020.](#)

6. Affirmative Production of Records

CB 120775 would remove the OLS Director's authority to collect aggregated or disaggregated records¹⁷ from network companies to administer, evaluate, and enforce the ordinance; OLS would retain authority to require records from individual network companies during enforcement actions. In the current law, OLS's regular collection of records on an industry-wide basis is intended to inform and assess policy and administration goals.

Other laws regulating app-based platforms include regular data reporting requirements. For example, the City requires Transportation Network Companies and short-term rental platforms to report on their operations in Seattle on a quarterly basis.¹⁸ NYC requires network companies to meet monthly reporting requirements to evaluate NYC's app-based delivery pay standard.¹⁹

On April 1, 2024, NYC issued a [press release](#) with preliminary analysis of network company data showing higher earnings for app-based delivery workers, more efficient use of app-based workers time, and no evidence of negative impacts on consumers and restaurants. Council may wish to consider retaining a requirement for network companies to affirmatively produce records in order for the City to be able to conduct similar analyses.

Options:

- a. Retain OLS Director's authority in current law to collect all identified records in the current ABWMP Ordinance to administer, evaluate, and enforce the ordinance;
- b. Authorize the OLS Director to collect a narrow set of records from network companies to administer, evaluate, and enforce the ordinance; or
- c. No change.

7. Penalties

CB 120775 would restrict the OLS Director from imposing civil penalties/fines on network companies for certain non-willful violations (i.e., violations that do not result in unpaid compensation or are the result of retaliation) if the network company cures the violation within 30 days of receiving notice of the alleged violation, or longer if the network company request additional time for good cause. This willful standard and good cause provision could apply to many investigations, including those involving long periods of non-compliance, potentially undermining incentives for compliance, creating additional work for OLS, and limiting remedies for workers.

¹⁷ Records may include but are not limited to: those related to availability of offers; the amount of engaged time and engaged miles; the amount of on-call time; the number of app-based workers; and the amount app-based worker compensation including network company payments, bonuses, incentives, and tips.

¹⁸ See [SMC 6.310.540](#) and [SMC 6.600.060](#).

¹⁹ See [NYC Requirements for Delivery Apps: Uniform Reporting Guide for Third-Party Delivery Services and Third Party Courier Services](#). Accessed online at <https://www.nyc.gov/site/dca/businesses/Delivery-Apps-Requirements.page.on.April.23>, 2024.

The current law does not *require* the OLS Director to distinguish between willful and non-willful violations. However, there are provisions authorizing discretion to waive/mitigate penalties based on timely payment of the full remedy due to the aggrieved workers and/or after consideration of the factors leading to the violation (e.g., extent of the network company’s culpability, substantive and technical nature of the violations, circumstances of each situation.)²⁰

This amendment would remove the OLS Director’s authority to waive or mitigate penalties on a case-by-case basis and would impose a more uniform standard based on the type of violation and whether the network company actions meet a willful standard. Under a willful standard²¹, inadvertent technical errors would likely not be considered violations that incur penalties. As much of app-based work is based on algorithms, this amendment could have a notable impact:

- Reducing the scope and application of penalties could result in those consequences functioning as the cost of doing business rather than as deterrents;
- Requiring OLS to prove that a violation is willful as a condition for assessing penalties and determine whether a network company has adequately cured a violation would create additional work for staff and extend the time to achieve resolutions, thereby reducing the efficiency of the investigative process;
- Limiting penalties could reduce financial remedies paid to workers who are affected or harmed by violations regardless of the network company’s intent. When enforcing labor standards, the OLS Director regularly uses the authority to assess penalties to workers (rather than the City) as a mechanism to provide workers with remedies for violations that do not require backpay (e.g., failure to provide up-front information on offers, receipts, and/or weekly pay statements).

Options:

- a. Retain OLS Director’s authority in current law to assess civil penalties/fines for all violations;
- b. Require the OLS Director to assess no more than a certain percentage of civil penalties/fines (e.g., no more than 50 percent of the amount) for certain non-willful violations that are cured within a reasonable time; or
- c. No change.

²⁰ See [SMC 8.37.070.A.4](#) and [SMC 8.37.070.A.5](#).

²¹ Under state law, “willful” means a knowing and intentional action that is neither accidental nor the result of a bona fide dispute (see [RCW 49.48.082](#))

8. Retaliation

CB 120775 would modify anti-retaliation protections of the current law. SMC subsections [8.37.120.D](#) and [8.37.120.D E](#) establish a presumptions that a network company has retaliated against a worker for exercising their rights under the ordinance in certain circumstances, unless the network company shows otherwise. These presumptions are intended to address the information asymmetry that exists when hiring entities take actions against workers, and are considered strong measures to protect workers who come forward to assert or inquire into labor protections. These presumptions are reflected in the City's other labor standards, and statewide labor protections. The Committee may wish to consider adding back in these anti-retaliation protections.

Options:

- a. Retain retaliation presumptions in current law (i.e., SMC subsections 8.37.120.D and 8.37.120.D E); or
- b. No change.

9. Private Right of Action

CB 120775 would remove the right of app-based workers to file individual or class civil actions for violations of the ABWMP Ordinance. Eliminating this provision would reduce enforcement options for workers, diverge from most of the City's labor standards, and could result in additional enforcement work for OLS.

A private right of action is included in 17 of 19 of the City's worker protection laws (i.e., all labor standards except for the [Fair Chance Employment Ordinance](#) and the [Commuter Benefits Ordinance](#)). The private right of action allows OLS to prioritize its investigations while giving workers other options if OLS can't pursue enforcement due to capacity or other reasons.

For reference, NYC's app-based delivery worker pay standard establishes a private right of action. California's pay standard under Proposition 22 does not include enforcement provisions; enforcement is presumably restricted to state agencies.

Options:

- a. Authorize private right of action for violations; or
- b. No change.

10. Implementation Costs and Financial Considerations

Implementing CB 120775 would likely have financial impacts for OLS, as the office could incur additional costs to revise rules, outreach materials, and enforcement procedures. To a lesser extent, there could be impacts on the City Attorney's Office (LAW) for advising OLS on revised rules and enforcement procedures.

Central Staff is prepared to work with OLS and the City Budget Office (CBO) to develop estimates of these costs, including the impact of additional work on OLS's existing programs and priorities, whether the costs are short- or long-term, and whether the costs could be absorbed within OLS's existing operations.²²

Central Staff is unlikely to receive and analyze this information prior to Council voting on CB 120775.

Options:

- a. Request that Central Staff works with CBO, OLS, and LAW to determine if additional resources are needed, and if such resources will be requested in the 2024 Mid-year Supplemental Budget ORD or proposed for the 2025 budget.
- b. No change.

11. Racial Equity Considerations

Black, Indigenous, and People of Color (BIPOC) workers face unique barriers to economic insecurity and disproportionately work in low-wage jobs with insecure working conditions.²³ In this context, the City established the ABWMP Ordinance to change the underlying systems creating race-based disparities in our community by strengthening job security, increasing income, and improving terms and conditions of work for app-based workers.

According to the most recently available data from the Bureau of Labor Statistics, Black and Latinx workers are overrepresented among app-based workers, comprising almost 42 percent of app-based workers but less than 29 percent of the overall labor force.²⁴ Thus, the impacts of the current law or the proposed changes disproportionately affect BIPOC workers.

A 2021 Pew Research Center study found that 16 percent of American adults earned money from app-based work, with rates higher for those who are BIPOC.²⁵ More than half of American app-based workers reported that the money they earn through app-based work was essential or important for meeting their basic needs.

In addition, many restaurants using app-based delivery services are small businesses owned by individuals or families in low-income and historically disenfranchised communities. Customers, including those with disabilities, may depend on app-based workers to provide

²² See [CB 120775 Summary and Fiscal Note](#) for background information on financial implications.

²³ Jessica Shakesprere, Jessica; Katz, Batia; Loprest, Pamela, [Racial Equity and Job Quality: Causes Behind Racial Disparities and Possibilities to Address Them](#). *Urban Institute*, September 2021. Accessed online at <https://www.urban.org/sites/default/files/publication/104761/racial-equity-and-job-quality.pdf> on April 23, 2024.

²⁴ [Labor Force Statistics from the Current Population Survey: Electronically Mediated Employment](#). *U.S. Bureau of Labor Statistics*, May 2017. Accessed online at <https://www.bls.gov/cps/electronically-mediated-employment.htm> on April 23, 2024.

²⁵ Pew Research Center, December 2021, "[The State of Gig Work in 2021](#)". Accessed online at https://www.pewresearch.org/internet/wp-content/uploads/sites/9/2021/12/PI_2021.12.08_Gig-Work_FINAL.pdf on April 22, 2024.

essential services, such as delivery of prepared food and groceries. Although there is less research available to inform the extent of the impacts on BIPOC-owned businesses and customers who depend on app-based delivery services, the legislation is likely to have an impact on these populations.

As discussed in Issue #2 (Worker Earnings), the intent of the proposed changes is to reduce labor and administrative costs for network companies, and incentivize network companies to lower their consumer fees, while still guaranteeing a minimum earnings standard for app-based workers at a lower rate but could result in a sub-minimum wage for app-based workers. This could have significant racial equity implications and may underscore the urgency to consider changes to the current law. At the same time, the Committee may wish to take additional time to understand the impacts of the current law on app-based workers, small businesses, and customers, and be informed by their input.

Options:

- a. Delay enacting legislation to establish a diverse stakeholder workgroup (e.g., workers, customers, and restaurants, inclusive of BIPOC participants) to inform proposed amendments to the current law;
- b. Enact the legislation as proposed, and, in addition, establish a diverse stakeholder workgroup (e.g., workers, customers, and restaurants, inclusive of BIPOC participants) to inform proposed amendments to this legislation; or
- c. No change.

Next Steps

The Committee will discuss any proposed amendments to the legislation at the next Committee meeting on May 9. Please contact Central Staff with amendment proposals by Monday, April 29th, at noon.

If the Committee votes to recommend approval of CB 120775 on May 9, the Council could consider the legislation on May 21. If passed by the Council, the legislation would likely go into effect between June 22 and June 30, 2024.

cc: Aly Pennucci, Deputy Director
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CB 120775

App-Based Worker Minimum Payment

Revisions Ordinance – Issue Identification

JASMINE MARWAHA AND KARINA BULL, ANALYSTS

GOVERNMENT, ACCOUNTABILITY AND ECONOMIC DEVELOPMENT COMMITTEE

APRIL 25, 2024

Presentation Outline

- Brief Overview
- Policy Considerations
- Questions
- Next Steps

ABWMP Revisions Ordinance

- CB 120775 would amend the pay standard established by ABWMP Ordinance, SMC 8.37, with the intent of providing a **guaranteed minimum earnings standard for app-based workers**, while reducing labor and administrative costs for network companies, and incentivizing network companies to lower their consumer fees. The goal in reducing fees is to increase overall consumer demand and provide economic benefits to the app-based workers, restaurants and other businesses that rely on the services, and network companies themselves.
- The legislation also amends the transparency, flexibility, and enforcement provisions of the ABWMP Ordinance, with the intent of further reducing costs by easing the regulatory burden on network companies.

ABWMP Revisions – Pay Standard

- Guarantee gross minimum wage of **\$19.97/hour + \$0.35/mile** (i.e., remove associated cost, time, & mileage factors; and reduce mileage rate).
 - At a gross, vs. net, level this hourly rate is equal to the City's current minimum wage. The mileage rate is lower than current law, which is linked to the IRS reimbursement rate and may not reflect the effective costs for most app-based workers.
- Engaged time (paid time) is calculated when worker is *en route* instead of upon acceptance of an offer.
- No payment for offers cancelled with cause *unless* customer changes result in five or more minutes of estimated engaged time.
- Pay would be calculated over a *network company earnings period*, instead of per-offer.
- Allow network companies to count incentives and bonuses toward minimum pay standard.

ABWMP Revisions - Transparency

- Retain estimate of engaged time, estimated engaged miles, approximate geographic location of work, guaranteed minimum payment for offer, names of businesses for relevant offers.
- Remove specific pickup and dropoff locations, amount of tip, information about physical labor requirements and unsealed contents.
- Remove requirements for receipts to customer and permit removal of geographic location of order if customer deleted their account.
- Remove OLS's ability to require affirmative production of records for administration, evaluation, and enforcement purposes.

ABWMP Revisions - Flexibility

- Clarify requirements to allow rewards/incentives for worker acceptance rate and availability (i.e., network company cannot *terminate a worker's contract* for lower acceptance rate or limited availability but can take other actions).
- Permit network company to limit worker access to the app, if the company discloses the reason.
- Narrow and clarify reasons for cancelling an offer with cause (i.e., network company cannot *terminate a worker's contract* for such reasons).

ABWMP Revisions - Enforcement

- Modify anti-retaliation protections, eliminating presumptions in [SMC 8.37.120.D and 8.37.120.E](#) that would otherwise establish retaliation.
- Modify OLS rulemaking authority, clarifying the scope of permissible rules (e.g., removes authority to issue rules for purposes of evaluating the ordinance, prevents rules that would require network companies to disclose certain records outside of an enforcement action).
- Eliminate private right of action, which allows workers additional options for redress if OLS cannot pursue enforcement due to capacity or other reasons.
- Establish a cure period for certain “non-willful” violations, which would prevent OLS from assessing penalties, fines, or other costs for those violations.

ABWMP Revisions – At a Glance

Pay Standard

- Guarantee gross minimum wage of **\$19.97/hour + \$0.35/mile** (i.e., remove associated cost, time, & mileage factors; and reduce mileage rate).
- Engaged time (paid time) is calculated when worker is *en route* instead of upon acceptance of an offer.
- No payment for offers cancelled with cause *unless* customer changes result in five or more minutes of estimated engaged time.
- Pay would be calculated over a *network company earnings period*, instead of per-offer.
- Allow network companies to count incentives and bonuses toward minimum pay standard.

Transparency

- Retain estimate of engaged time, estimated engaged miles, approximate geographic location of work, guaranteed minimum payment for offer, names of businesses for relevant offers.
- Remove specific pickup and dropoff locations, amount of tip, information about physical labor requirements and unsealed contents.
- Remove requirements for receipts to customer and permit removal of geographic location of order if customer deleted their account.
- Remove OLS's ability to require affirmative production of records for administration, evaluation, and enforcement purposes.

Flexibility

- Clarify requirements to allow rewards/incentives for worker acceptance rate and availability (i.e., network company cannot *terminate a worker's contract* for lower acceptance rate or limited availability but can take other actions).
- Permit network company to limit worker access to the app, if the company discloses the reason.
- Narrow and clarify reasons for cancelling an offer with cause (i.e., network company cannot *terminate a worker's contract* for such reasons).

Enforcement

- Changes to enforcement, including narrowing anti-retaliation provisions, modifying rulemaking authority, establishing a “cure” period for non-willful violations, and removing private right of action.

Policy Considerations

The following slides highlight significant policy changes or considerations associated with the ABWMP Revisions Ordinance. If a councilmember is interested in addressing any of the policy considerations, Central Staff can work to identify options and prepare amendments that meet the councilmember's interests.

1. Network Company Consumer Fees

With limited information, it is difficult to assess specifically how the current regulations impact labor and administrative costs, and correspondingly how the proposed legislation would result in changes to the costs, demand, and supply of network company services, particularly the non-economic provisions.

Network companies could still choose to offset the cost of regulation by raising costs and may retain consumer fees.

Central Staff memo identifies a range of potential options for this consideration.

2. Worker Earnings

If CB 120775 achieves the intended impact of reducing consumer fees and thereby increasing consumer demand for online orders, the proposed pay standard (although lower than current requirements) could increase worker earnings as compared to prior to the law being in effect.

While the proposed legislation would result in a gross payment of the Seattle minimum wage to app-based workers when actively performing offers, it may result in a net payment that falls below minimum wage when accounting for on-call time and expenses.

Central Staff memo identifies a range of potential options for this consideration.

3. Earnings Period and Incentives

CB 120775 would require the minimum payment standard to be met for all engaged time over the course of a network company “earnings period,” rather than for each offer, and allow incentives and bonuses to count toward the minimum pay requirement.

This change could result in reduced labor costs per online order and may lead network companies to reduce consumer fees per offer. It may also result in less transparency and predictability at the end of the earnings period, and a lower likelihood of incentives and bonuses adding to higher earnings than the minimum required by law.

Central Staff memo identifies a range of potential options for this consideration.

4. Customer Receipts

The proposed legislation would remove the requirement for customer receipts. While the network companies may still provide this information to consumers regardless of the requirement, the Committee may want to consider retaining requirements for consumer receipts in CB 120775 to provide greater assurances of consumer transparency.

Central Staff memo identifies potential options for this consideration.

5. Flexibility (1/2)

The current law prohibits network companies from taking *any adverse action* against app-based workers who limit hours of availability, reject individual offers, or cancel offers with cause. CB 120775 would allow network companies to *take any action except for terminating a worker's contract* (i.e., permanently blocking access to the platform) in response to workers exercising flexibility options.

The App-Based Worker Deactivation Rights Ordinance (SMC Chapter 8.40), effective January 1, 2025, prohibits network companies from *deactivating a worker* (i.e., restricting access but not necessarily permanently blocking access to the platform) for exercising flexibility options. The Committee may want to consider harmonizing CB 120775 with Chapter 8.40, to simplify outreach and enforcement of this provision.

Central Staff memo identifies a range of potential options for this consideration.

5. Flexibility (2/2)

CB 120775 would also allow network companies to block a worker's access to the platform for any reason, provided they disclose the reason to the worker. This could allow network companies to increase the efficiency of app-based workers by reducing on-call time and increasing the number of offers completed by workers who are able to access the platform, thereby increasing overall earnings.

However, when combined with the other proposed changes to the flexibility provisions, this could result in workers being restricted from the platform for limiting their availability or acceptance of offers.

Central Staff memo identifies potential options for this consideration.

6. Affirmative Production of Records

CB 120775 would remove the OLS Director's authority to collect records from network companies to administer, evaluate, and enforce the ordinance. OLS would retain authority to require records from individual network companies during enforcement actions.

Other City laws regulating app-based platforms (i.e., TNCs and short-term rentals) include regular data reporting requirements.

Central Staff memo identifies a range of potential options for this consideration.

7. Penalties (1/2)

- CB 120775 would restrict the OLS Director from assessing penalties for certain **non-willful violations** if the network company “cures” the violation within 30 days or longer if the network company requests additional time for “good cause.”
- Potential impacts:
 - Penalties could lose deterrent effect, functioning as the cost of doing business.
 - Additional work for OLS enforcement staff to determine whether violation was willful or non-willful and whether violation was cured.
 - Reduced financial remedies paid to workers who are affected by violations regardless of the network company’s intent. The OLS Director regularly uses the authority to assess penalties to workers (rather than the City) as a mechanism to compensate workers for technical violations that do not result in backpay.

Central Staff memo identifies a range of potential options for this consideration.

8. Retaliation

CB 120775 would modify anti-retaliation protections, removing presumptions that a network company has retaliated against a worker for exercising their rights unless the network company shows otherwise.

These presumptions are intended to address the information asymmetry that exists when hiring entities take actions against workers and are considered strong measures to protect workers who ask questions about their rights or report violations. These presumptions are reflected in the City's other labor standards and statewide labor protections.

Central Staff memo identifies a range of potential options for this consideration.

9. Private Right of Action

CB 120775 would remove the right of app-based workers to file civil actions for violations of the ABWMP Ordinance.

The private right of action allows OLS to prioritize its investigations while giving workers other options if OLS can't pursue enforcement due to capacity or other reasons. Most of Seattle's worker protections have a private right of action (i.e., all labor standards except for the Fair Chance Employment Ordinance and the Commuter Benefits Ordinance).

Central Staff memo identifies potential options for this consideration.

10. Implementation & Financial Considerations

- Implementing CB 120775 would likely have financial impacts for OLS, as the office could incur additional costs to revise rules, outreach materials, and enforcement procedures.
- Central Staff is prepared to work with OLS and the City Budget Office (CBO) to develop estimates of these costs, including the impact of additional work on OLS's existing programs and priorities, whether the costs are short- or long-term, and whether the costs could be absorbed within OLS's existing operations.
- Central Staff may not receive and/or be able to analyze this information prior to Council voting on CB 120775.

Central Staff memo identifies potential options for this consideration.

11. Racial Equity Considerations (1/2)

- Black and Latinx workers are overrepresented among app-based workers, comprising almost 42 percent of app-based workers but less than 29 percent of the overall labor force. Thus, the impacts of the current law or the proposed changes disproportionately affect BIPOC workers.
- Many restaurants using app-based delivery services are small businesses owned by individuals or families in low-income and historically disenfranchised communities.
- Customers, including those with disabilities, may depend on app-based workers to provide essential services, such as delivery of prepared food and groceries.

Central Staff memo identifies a range of potential options for this consideration.

Next Steps

- April 29 – Proposed amendments due to Central Staff by noon.
- May 9 – Consideration of any proposed amendments & final Committee vote
- May 21 – Council vote

Questions?

CB 120775 – App-Based Worker Minimum Payment Revisions Proposed Amendment Packet
Government Affairs and Economic Development Committee – Thursday, May 9, 2024

No.	Short title	Sponsor(s)	Pg.
1	Clarification of minimum network company payment	Nelson	1
2	Affirmative production of records and study	Kettle	3
3	Penalties for certain non-willful violations	Kettle	9
4	Private Right of Action	Saka	11

Amendment #1 Version 1 to CB 120775 - App-Based Worker Minimum Payment Revisions Ordinance

Sponsor: Councilmember Nelson

Clarification of minimum network company payment

Effect: This amendment would prohibit a network company from reducing the total amount paid to an app-based worker for performing offers during a network company earnings period if the network company determines that the app-based worker earned *more* than the minimum payment standard.

The intent of this amendment is to clarify that while network companies can count incentive and bonus amounts in their calculation of whether an app-based worker's earnings meet the minimum payment standard at the end of an earnings period, network companies *cannot* use incentive and bonus amounts to reduce earnings that would otherwise exceed minimum pay requirements.

Under Council Bill (CB) 120775, the App-Based Worker Minimum Payment Revisions Ordinance, network companies can (1) count incentives and bonuses toward the minimum network company payment requirements and (2) provide notice of pay for individual offers (inclusive or exclusive of incentives and bonuses) that is less than the minimum per hour amounts or minimum per mile amounts. Before processing payment at the end of the earnings period, the network company must ensure that an app-based worker's total earnings, including incentives and bonuses, meet minimum payment standards, and if necessary, include an additional sum in the app-based worker's earnings to "true-up" any difference between the app-based worker's earnings and the minimum pay requirements.

Amend Section 2 of CB 120775 as follows:

8.37.050 Minimum network company payment

A. Requirement

* * *

3. A network company shall not reduce the total amount of network company payments, including incentive and bonus payments, paid to an app-based worker for the network company earnings period if, upon completing the comparison in subsection 8.37.050.A.2, the

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total amount of network company payments earned by the app-based worker is more than the total calculated under subsection 8.37.050.B for that network company earnings period.

* * *

Amendment #2 Version 1 to CB 120775 - App-based Worker Minimum Payment Revisions Ordinance

Sponsor: Councilmember Kettle

Affirmative production of records and study

Effect: This amendment would restore some affirmative data production requirements, authorizing the OLS Director to require aggregated records deemed necessary to administer, enforce, or evaluate the impact of the provisions of this Chapter 8.37 on app-based worker earnings. The amendment also requests a study from the City Auditor’s office to evaluate the impacts of Chapter 8.37 to app-based workers, network companies, restaurants, small businesses, and customers.

Council Bill (CB) 120775, the ABWMP Revisions Ordinance, proposes removal of any affirmative data transmittal to OLS, and repeals subsection 8.37.070.G.

Consistent with Washington State Constitution requirements, these amendments, including the amendment to the title, would not change the scope and object of the ordinance.

Note: a dashed underline indicates material that CB 120775 proposes to delete from SMC 8.37, but this amendment would leave in.

Amend the title of CB 120775 as follows:

AN ORDINANCE relating to app-based worker labor standards; establishing a new compensation scheme for app-based workers with minimum pay requirements and related standards for transparency and flexibility; amending Sections 8.37.020, 8.37.050, 8.37.060, 8.37.070, 8.37.080, 8.37.100, ~~8.37.110~~, 8.37.120, 8.37.125, 8.37.165, and 8.37.170 of the Seattle Municipal Code; and repealing Section 8.37.230 of the Seattle Municipal Code.

Amend Section 4 of CB 120775 as follows:

8.37.070 Network company transparency

* * *

~~((G. A network company shall routinely and affirmatively transmit to the Agency such records as required by rules issued by the Director. The Director shall have the authority to require such aggregated or disaggregated records deemed necessary, appropriate, or convenient to administer, evaluate, and enforce the provisions of this Chapter 8.37. The Director may issue rules requiring that aggregated records be produced as a distribution at defined percentiles. The~~

~~Director may issue data production rules of general applicability as well as rules specific to on-demand companies. In issuing data production rules, the Director shall consider, among other factors, methods to provide workers with information to make informed choices about platforms on which they may seek work and to provide the public with information to assess the impact of network companies.~~

~~1. Records for production may include, but are not limited to:~~

~~a. Records regarding the availability of offers facilitated via the network company platform;~~

~~b. Records regarding the amount of engaged time and engaged miles;~~

~~c. The amount of time that app-based workers must spend working or engaged to wait for work without compensation to perform app-based work;~~

~~d. Records regarding the number of app-based workers who logged onto the worker platform, logged on for the first time in the reporting period, or accepted an offer;~~

~~e. Per offer or aggregated app-based worker compensation, including but not limited to network company payments, bonuses, incentives, and tips earned from customers; and~~

~~f. Any other records that the Director determines are material and necessary to effectuate the purposes of this Chapter 8.37.)~~

G. A network company shall routinely and affirmatively transmit to the Agency such records as required by this subsection 8.37.070.G. The Director shall have the authority to require such aggregated records deemed necessary to administer, enforce, or evaluate the impact of the provisions of this Chapter 8.37 on app-based worker earnings. The Director may issue rules requiring that aggregated records be produced as a distribution at defined percentiles. The

Director may issue data production rules of general applicability as well as rules specific to on-demand network companies.

1. Records for production may only include those related to:

a. The number, type, and origin and destination cities of offers facilitated by a network company;

b. Amount of engaged time and engaged miles completed by app-based workers, and amount of time app-based workers are logged into the app as compared to amount of engaged time;

c. Net earnings of app-based workers, including but not limited to records related to app-based workers' network company payments, bonuses, incentives, tips, and deductions; and

d. The amount and description of network company fees charged to paying customers;

((2.)) A network company shall not transmit to the Agency any personally identifiable app-based worker information, including name, date of birth, home address, social security number, vehicle license plate number, driver's license number, or other similar records, except when related to an enforcement action. ((The Director shall issue rules governing the submission format, security, and privacy protocols relating to the submission of network company records, to the extent permitted by law.))

((H.)) ~~€~~ A network company shall notify app-based workers at least 14 days prior to making a material change to how network company payment will be calculated.

* * *

Remove Section 7, which reads as follows, and renumber subsequent sections:

8.37.110 Network company records

* * *

D. The Director may not require the production of any record other than through a lawful request relating to an enforcement action.

Amend Section 9 of CB 120775 as follows:

8.37.125 Rulemaking authority

The Director is authorized to administer and enforce this Chapter 8.37. The Director is authorized to promulgate, revise, or rescind rules and regulations deemed necessary (~~(appropriate, or convenient)~~) to administer ~~(, evaluate)~~ and enforce the provisions of this Chapter 8.37 pursuant to Chapter 3.02, providing affected entities with due process of law and in conformity with the intent and purpose of this Chapter 8.37. Any rules promulgated by the Director shall have the force and effect of law and may be relied on by network companies, app-based workers, and other parties to determine their rights and responsibilities under this Chapter 8.37. No rule or regulation promulgated by the Director regarding this Chapter 8.37 shall:

A. Expand the requirements of this Chapter 8.37;

B. Impose additional requirements in excess of those expressly set forth in this Chapter 8.37; or

C. Outside of an enforcement action ~~or the requirements of subsection 8.37.070.G,~~ require the disclosure of confidential, sensitive, or proprietary business information or trade secrets, or personally identifiable information of a customer or worker.

* * *

Amend Section 11 of CB 120775 as follows:

8.37.170 Remedies

* * *

E. The Director is authorized to assess fines for a violation of this Chapter 8.37 and may specify that fines are due to the aggrieved party rather than due to the Agency. The Director is authorized to assess fines as follows:

Violation	Fine
Failure to provide app-based worker with up-front information regarding offers under subsection 8.37.070.A	Up to \$575.31 per aggrieved party
Failure to provide app-based worker with electronic receipts within ((24)) <u>48</u> hours of each offer’s performance ((or cancellation with cause)) <u>that incurs engaged time</u> under subsection 8.37.070.B	Up to \$575.31 per aggrieved party
Failure to provide app-based worker with weekly statements under subsection 8.37.070.C	Up to \$575.31 per aggrieved party
<u>((Failure to provide the Agency with records required under subsection 8.37.070.G</u>	<u>Up to \$575.31 per missing record))</u>
Failure to provide app-based worker with at least 14 days of notice of a material change to the network company payment calculation under subsection 8.37.070.G <u>((8.37.070.H))</u>	Up to \$575.31 per aggrieved party
Failure to comply with requirements for app-based worker’s right to decide when to work and which offers to accept or reject under subsection 8.37.080.A	Up to \$575.31 per aggrieved party

* * *

Add a new Section 13 to CB 120775 as follows and renumber subsequent subsections:

Section 13. The Council requests the City Auditor, in collaboration with the Office of Labor Standards, to contract with academic researchers who have a proven track record of rigorous analysis of the impacts of network companies and/or labor standards regulations to conduct an evaluation of the impacts of this ordinance for the baseline, one-year, and two-year periods following implementation, to the extent reasonably ascertainable. Areas of evaluation shall include, but not be limited to, the impacts of the requirements of Chapter 8.37 of the Seattle

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Municipal Code to app-based workers, network companies, restaurants, small businesses, and customers. The Council shall use the results of the evaluation to identify possible areas for revision to accomplish the goals of this ordinance.

Amendment #3 Version 1 to CB 120775 - App-Based Worker Minimum Payment Revisions Ordinance

Sponsor: Councilmember Kettle

Penalties for certain non-willful violations

Effect: This amendment would set a defined period for restricting the Office of Labor Standards (OLS) Director’s assessment of civil penalties/fines for certain non-willful violations (i.e., non-economic violations that are not based on retaliation) of the App-Based Worker Minimum Payment Ordinance (ABWMP), Seattle Municipal Code (SMC) Chapter 8.37.

- From January 13, 2024 through January 13, 2025 (i.e., the first year of implementation), the OLS Director would not assess penalties against a network company for certain non-willful violations if the network company cures the violation within 30 days of receiving notice of the alleged violation, or longer if the network company requests additional time for good cause.
- After January 13, 2025, the Director would have authority to assess penalties for all violations, regardless of whether the violation is willful or non-willful. This authority would include options for waiving or reducing penalties on a case-by-case basis after considering the circumstances of the violation.

This amendment would provide network companies with the opportunity for a “grace period” from penalties for certain non-willful violations during initial implementation of the ABWMP Ordinance. After this period, the OLS Director would assess penalties consistent with enforcement provisions in other labor standards.

Council Bill (CB) 120775, the ABWMP Revisions Ordinance, would restrict the Director’s assessment of penalties for certain non-willful violations on a permanent basis.

Amend Section 11 of CB 120775 as follows:

8.37.170 Remedies

* * *

I. For non-willful violations that do not result in unpaid compensation and are not based on retaliation, if the network company is in substantial compliance with this Chapter 8.37, the Director shall provide the network company notice of an alleged violation and a reasonable time period, not fewer than 30 calendar days, to cure the violation and shall not impose any civil

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penalties, fines, or costs if the network company cures the violation in the reasonable time period. A network company may request additional time to cure for good cause. If the network company fails to cure within the time period allotted, the Director may impose civil penalties, fines, or costs against the network company up to the applicable limit as part of a settlement agreement, Director's Order, or other enforcement action. [This subsection 8.37.170.I shall apply retroactively beginning January 13, 2024, and terminate on January 13, 2025, applying to violations during this time period regardless of when the investigation begins \(subject to the applicable statute of limitations under subsection 8.37.150.C\).](#)

Amendment #4 Version 1 to CB 120775 - App-Based Worker Minimum Payment Revisions Ordinance

Sponsor: Councilmember Saka

Private right of action

Effect: This amendment would restore a private right of action for violations of the App-Based Worker Minimum Payment (ABWMP) Ordinance, Seattle Municipal Code (SMC) Chapter 8.37; and restore references to the private right of action in relevant ordinance sections: the title, notice of rights, retaliation prohibitions, and complaint procedure. The private right of action would permit app-based workers to file individual or class civil actions to enforce the ordinance.

Council Bill (CB) 120775, the ABWMP Revisions Ordinance, proposes removal of the private right of action.

Consistent with Washington State Constitution requirements, these amendments, including the amendment to the title, would not change the scope and object of the ordinance.

Note: a dashed underline indicates material that CB 120775 proposes to delete from SMC 8.37, but this amendment would leave in SMC 8.37.

Amend the title of CB 120775 as follows:

AN ORDINANCE relating to app-based worker labor standards; establishing a new compensation scheme for app-based workers with minimum pay requirements and related standards for transparency and flexibility; and amending Sections 8.37.020, 8.37.050, 8.37.060, 8.37.070, 8.37.080, 8.37.100, 8.37.110, 8.37.120, 8.37.125, 8.37.165, and 8.37.170 of the Seattle Municipal Code ~~((; and repealing Section 8.37.230 of the Seattle Municipal Code.))~~

Amend Section 6 of CB 120775 as follows:

8.37.100 Notice of rights

* * *

B. The notice of rights shall provide information on:

* * *

6. The right to file a complaint with the Agency ~~((or bring a civil action))~~ for violation of the requirements of this Chapter 8.37, including but not limited to a network company's or any person's failure to pay the minimum ~~((per-minute))~~ per-hour amount ~~((or per-offer amount and))~~ or per-mile amount, or a network company's or other person's retaliation against an app-based worker or other person for engaging in an activity protected by this Chapter 8.37.

* * *

Amend Section 8 of CB 120775 as follows:

8.37.120 Retaliation prohibited

* * *

B. No network company or any other person shall ~~((take any adverse action))~~ retaliate against any person because the person has exercised in good faith the rights protected under this Chapter 8.37. Such rights include, but are not limited to, the right to make inquiries about the rights protected under this Chapter 8.37; the right to inform others about their rights under this Chapter 8.37; the right to inform the person's network company, the person's legal counsel, a union or similar organization, or any other person about an alleged violation of this Chapter 8.37; the right to file an oral or written complaint with the Agency ~~((or bring a civil action))~~ for an alleged violation of this Chapter 8.37; the right to cooperate with the Agency in its investigations of this Chapter 8.37; the right to testify in a proceeding under or related to this Chapter 8.37; the right to refuse to participate in an activity that would result in a violation of city, state, or federal law; and the right to oppose any policy, practice, or act that is unlawful under this Chapter 8.37.

* * *

Amend Section 10 of CB 120775 as follows, relettering subsections of 8.37.165.D.3:

8.37.165 Complaint procedure

* * *

D. The Agency may send notices to the network company and complainant, including but not limited to:

* * *

3. Notice to the complainant of the response from the network company. The Agency may send a notice to the complainant of the response from the network company. This notice to the complainant may include but not be limited to:

a. The response from the network company, including any enclosures;

((b. Information on the right to bring a civil action in a court of competent jurisdiction;))

* * *

Remove Section 12 (repeal of Section 8.37.230), which reads as follows, from CB 120775 and renumber Section 13 as Section 12:

~~((8.37.230 Private right of action~~

~~A. Any person or class of persons that suffers an injury as a result of a violation of this Chapter 8.37, or is the subject of prohibited retaliation under Section 8.37.120, may bring a civil action in a court of competent jurisdiction against the network company or other person violating this Chapter 8.37 and, upon prevailing, may be awarded reasonable attorney fees and costs and such legal or equitable relief as may be appropriate to remedy the violation including, without limitation: the payment of any unpaid compensation plus interest due to the person and liquidated damages in an additional amount of up to twice the unpaid compensation; and a penalty payable to any aggrieved party of up to \$5,755.31 if the aggrieved party was subject to~~

~~prohibited retaliation. Interest shall accrue from the date the unpaid compensation was first due at 12 percent per annum, or the maximum rate permitted under RCW 19.52.020.~~

~~B. For purposes of this Section 8.37.230, “person” includes any entity a member of which has suffered an injury or retaliation, or any other individual or entity acting on behalf of an aggrieved party that has suffered an injury or retaliation.~~

~~C. For purposes of determining membership within a class of persons entitled to bring an action under this Section 8.37.230, two or more app-based workers are similarly situated if they:~~

~~1. Performed services in Seattle for the same network company or network companies, whether concurrently or otherwise, at some point during the applicable statute of limitations period;~~

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

~~3. Seek similar forms of relief.~~

~~D. For purposes of subsection 8.37.230.C, app-based workers shall not be considered dissimilar solely because:~~

~~1. The app-based workers’ claims seek damages that differ in amount, or~~

~~2. The job titles of or other means of classifying the app-based workers differ in ways that are unrelated to their claims.~~

~~E. An order issued by the court may include a requirement for a network company to submit a compliance report to the court and to the Agency.))~~