

SUMMARY and FISCAL NOTE*

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** 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 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.

Summary and Background of the Legislation: App-based workers perform offers facilitated or presented by network companies to provide a variety of valued services for the community (e.g., on-demand food delivery, pre-scheduled tasks). However, many app-based workers earn inconsistent or low pay and lack adequate bargaining power to negotiate better terms and conditions for their work. Since network companies treat app-based workers as independent contractors, app-based workers do not have access to minimum wage, mandatory insurance and leave benefits, paid rest breaks, and other protections that would apply to an employee workforce.

This legislation would establish a new labor standard, Chapter 8.37, requiring a comprehensive compensation scheme for app-based workers. Network companies would be required to:

1. Pay all tips and at least the equivalent of Seattle’s minimum wage under [Seattle Municipal Code \(SMC\) 14.19](#) plus reasonable expenses;
2. Regularly provide transparent job and pay information; and
3. Permit flexibility in choosing when to work and which offers to accept, reject, or cancel with cause.

These requirements would become effective approximately 12 months after Council’s passage and would be implemented by the Office of Labor Standards (OLS).

Coverage

The legislation would cover (1) app-based workers accepting offers to perform services in Seattle via a network company’s worker platform and (2) network companies with 250 or more app-based workers worldwide. Requirements would not apply to certain offers, such as online orders for transactions involving sale/rental of products or real estate or transportation provided by taxicabs or for-hire vehicles. Requirements would also not apply to certain network companies, such as companies operating digital advertising or messaging platforms that do not intermediate relationships between parties or involve any oversight of service provision.

Legal requirements

1. Minimum payment

Network companies would pay, or ensure that an app-based worker receives, all tips and at least the equivalent of a minimum network company payment. This payment would be the total of a “per minute amount” for engaged time and a “per mile amount” for engaged miles to perform an offer.

For most companies, the start and end of engaged time and engaged miles would depend on whether: (1) an on-demand network company facilitates or presents the offer or the network company expects the worker to initiate performance within two hours; or (2) the network company expects the worker to initiate performance of the offer in two hours or more.

For marketplace network companies, which facilitate prescheduled offers in which the customer and worker negotiate an offer and in which the company does not monitor an offer’s location, mileage and time, engaged time for an offer may be estimated by the customer and app-based worker, and engaged miles do not apply.

Network companies would also pay a minimum per-offer amount of at least \$5 (subject to annual adjustments for inflation) for any offer resulting in engaged time or miles. The OLS Director could issue rules excluding certain offers from the minimum per-offer amount, such as those cancelled by the customer within a grace period of not more than five minutes, and for offers from marketplace network companies which are cancelled before completion of performance.

$$\begin{aligned} & \text{(Engaged Time x Per-Minute Amount) + (Engaged Miles x Per-Mile Amount)} \\ & \qquad = \text{Minimum Network Company Payment} \end{aligned}$$

a. Per-minute amount – \$0.39

The per-minute amount would ensure that app-based workers receive at least the total of a “minimum wage equivalent rate” multiplied by an “associated cost factor” multiplied by an “associated time factor” for their engaged time to perform an offer. The amounts of each rate and/or factor would depend on applicable law or Director rules. For example, in 2022, the amounts would be:

- Minimum wage equivalent rate – \$0.288
The minimum wage equivalent rate would provide a per-minute equivalent of Seattle’s hourly minimum wage for Schedule 1 employers (i.e., large employers with more than 500 employees worldwide).
- Associated cost factor – 1.13
The associated cost factor would pay workers for non-mileage expenses (e.g., cost of employer-side payroll taxes, workers compensation insurance) that are necessary to perform app-based work.

- Associated time factor – 1.21
The associated time factor would account for unpaid time (e.g., time to review an offer) that is necessary to perform app-based work.

b. Per-mile amount – \$0.73

The per mile amount would ensure that app-based workers receive at least the “standard mileage rate” multiplied by an “associated mileage factor” for their engaged miles to perform an offer. For example, in 2022, these amounts would be:

- Standard mileage rate – \$0.585
The standard mileage rate would be the Internal Revenue Service rate of reimbursement for operating an automobile.
- Associated time factor – 1.25
The associated mileage factor would pay workers for miles travelled that are necessary to perform app-based work but are not included in payment for a specific offer (e.g., miles travelled to locations for rest breaks).

2. Transparency

Network companies would provide pay-related information to app-based workers, customers, and/or OLS:

a. Offer information

Network companies would provide app-based workers with specific information for each offer.

b. Electronic receipts

Network companies would provide app-based workers with pay information within 24 hours of performing each offer or cancelling with cause, and on a weekly basis. Network companies would also provide customers with information on worker pay with 24 hours of the online order’s performance or cancellation with cause.

c. Company records

Network companies would provide OLS with aggregated or disaggregated records to support the City’s administration, evaluation, and enforcement of pay requirements, subject to rulemaking.

3. Flexibility

App-based workers would have the right to determine their availability to work and which offers to accept, reject, or cancel with cause. Network companies would be prohibited from engaging in actions, or instituting policies, that would subject app-based workers to an adverse action for exercising any of these rights.

Enforcement

OLS would implement and enforce the legislation. OLS could conduct complaint-based or directed investigations; facilitate information exchanges between parties through a complaint procedure; or provide intake and informational services through a navigation program. To remedy violations, OLS could order (1) payment to aggrieved parties of up to three times the amount owed plus interest; and (2) penalties and/or fines payable to OLS or the aggrieved party. In addition to filing claims with OLS, app-based workers could file a civil action against the network company and, upon prevailing, could be awarded attorney fees plus costs.

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

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. There would be financial implications for OLS (e.g., cost of rulemaking, outreach, and enforcement), and to a lesser extent for the City Attorney Office (e.g., cost of supporting OLS enforcement), and Hearing Examiner (e.g., cost of conducting hearings on appeals from respondents and aggrieved parties).

OLS estimates that the cost to implement the ordinance would include \$566,900 for initial implementation in the first year, \$670,685 per year for on-going staffing, and an additional \$502,775 per year for on-going costs such as translations, outreach and communication, community partnerships. Central Staff will continue to gather and analyze information from OLS to better understand financial implications.

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

No.

4. OTHER IMPLICATIONS

a. Does this legislation affect any departments besides the originating department?

Yes. OLS would implement and enforce this legislation. There would be an undetermined number of legal referrals to the City Attorney. The Hearing Examiner would conduct hearings on appeals from respondents and aggrieved parties.

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 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, and are disproportionately deprived of core employee protections when network companies treat them as independent contractors.

The compensation scheme established by this legislation seeks to address the inequities of app-based work by providing workers with minimum pay for each performed offer, transparent information about their work and pay, and the discretion to choose when to work. To encourage vulnerable workers to report violations of these requirements, OLS would keep identifying information of complainants confidential and would have authority to conduct company-wide investigations. To incentivize network company compliance, OLS could impose strong remedies (e.g., triple damages for workers and per violation penalties) for violations.

To reach workers with limited English proficiency, network companies would provide a notice of rights in English and in the worker's primary language. OLS would create and distribute model notices of rights in English and other languages.

f. Climate Change Implications

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

N/A

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.

N/A

- 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)?**

OLS posts information on outreach and enforcement efforts on their [on-line, interactive dashboard](#). The same metrics publicized for other labor standards could apply for this legislation (e.g., number of inquiries, number of investigations, amounts of remedies). OLS contracts with community and business organizations to conduct measurable outreach efforts on worker rights and hiring entity/employer responsibilities.

Summary Attachments: