



SEATTLE CITY COUNCIL
CENTRAL STAFF

App-Based Worker Minimum Payment Review

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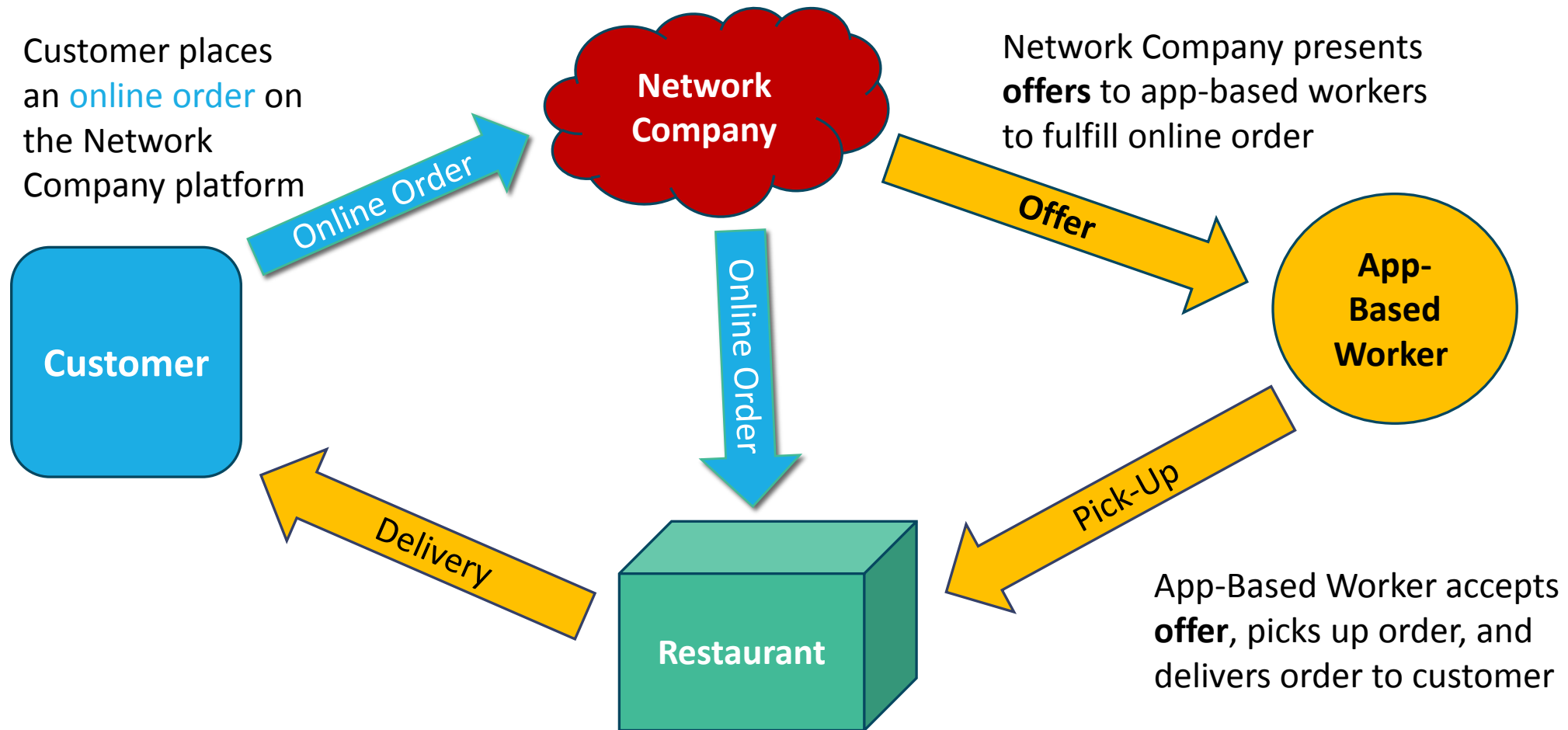
GOVERNMENT, ACCOUNTABILITY AND ECONOMIC DEVELOPMENT COMMITTEE

MARCH 28, 2024

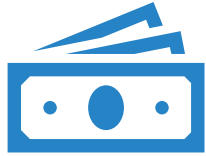
Presentation Outline

- Background
- App-Based Worker Minimum Payment Requirements
 - Per Minute Amount
 - Per Mile Amount
 - Transparency
 - Flexibility
- Current Context
- Stakeholder-Proposed Revisions
- Next Steps

App-Based Work Example (Restaurant Delivery)



ABWMP Ordinance Goals



Minimum Pay

Ensure payment of minimum wage plus expenses for each offer.



Transparency

Ensure workers have information to make informed choices about which offers to accept, and to verify compliance with pay standard and other rights.

Provide clarity to workers and end customers on the nature of charges.



Flexibility

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

Coverage

Which workers get protection?

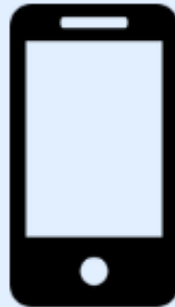
These laws apply to any worker who uses certain apps to receive work assignments and accepts a paid offer to perform services in Seattle.

Which apps?

Apps that belong to "Network Companies" are covered but what is a network company?



has
250+
app-based
workers
worldwide



Connects customers
with workers

Presents offers to
workers through the
app

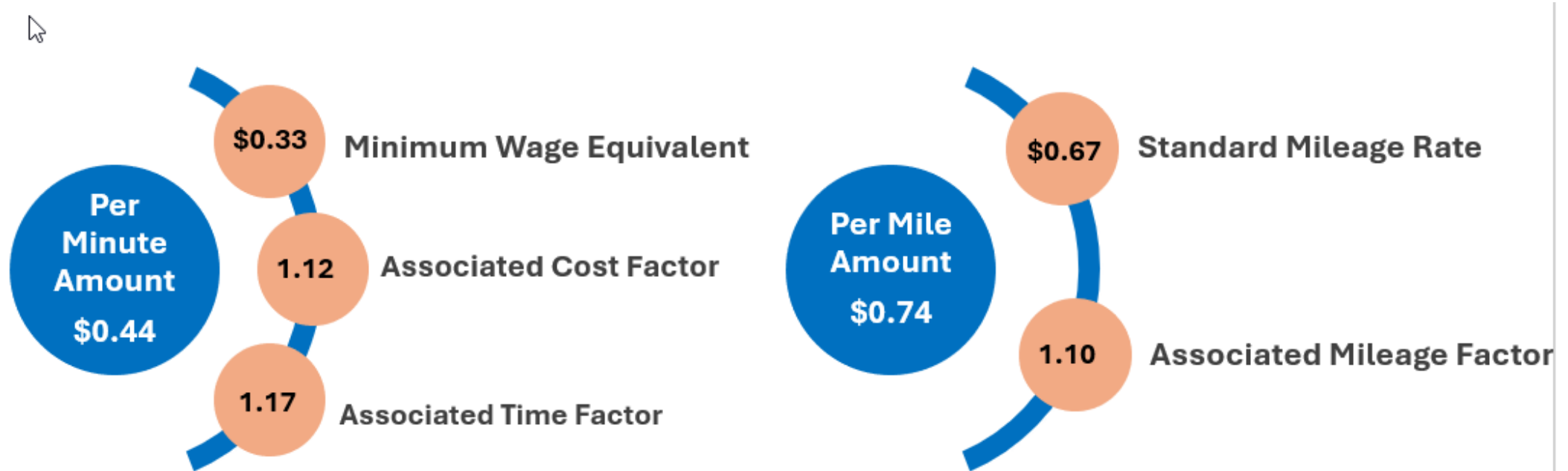


Sets rates of pay

Monitors
worker's mileage
and time working

*Source: [OLS Labor Protections for App-Based Workers Flier](#)

App-Based Worker Minimum Pay Standard



ABWMP Associated Cost Factor

Associated cost factor for non-mileage expenses, including but not limited to:

Item	Notes
Payroll tax	Additional “employer share” of payroll taxes is currently 7.65%
State Paid Family Medical Leave	Expense of contractor opt-in to PFML, currently 0.25%
Unemployment compensation	Average cost to cover an employee in state unemployment insurance is approximately 1.06%
Workers Compensation	Average cost of state workers comp coverage is approximately 2.84%
Miscellaneous expenses	Equipment, business taxes & license fees

Associated Cost Factor = 12%

ABWMP Associated Time Factor

Associated time factor for additional time workers spend in between offers that relate to their work, including but not limited to:

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

Associated Time Factor = 17%

App-Based Worker Mileage Expenses

Mileage expenses are set at the standard mileage rate established by the IRS for calculation of the costs of operating an automobile. This mileage rate is adjusted annually by the IRS.

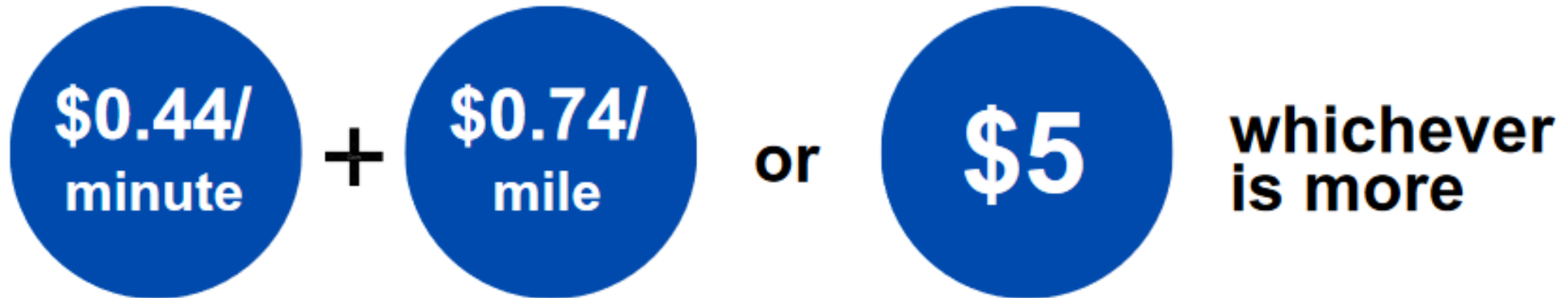
- In 2024, this is **\$0.67 per mile**

The **associated mileage factor** for additional miles traveled outside of specific offers need to perform the work including but not limited to:

1. Relocating in anticipation of future offers
2. Rest breaks
3. Restroom access

Associated mileage Factor = 10%

App-Based Worker Minimum Pay Standard



- Network companies must ensure that app-based workers receive minimum payment for each offer's **engaged time** and **engaged miles**.
- For “on-demand” offers (where performance is expected within 2 hours), engaged time and miles begin upon the acceptance of the offer until the offer is completed, or until the offer is canceled by the company, customer, or worker (with cause).

Example of Pay Standard

App-Based Worker (ABW) accepts an offer to deliver from Jasmine's restaurant to a residence in Seattle 2 miles away from the restaurant. ABW drives 1 mile to the restaurant and spends a total of 30 minutes from offer acceptance to delivery dropoff.

- ABW will be paid $30 \times \$0.44 = \13.20 for engaged time.
- ABW will be paid $3 \times .74 = \$2.22$ for engaged miles.

- Total minimum payment to the worker for that offer*: **\$15.42**

**assuming orders are not "stacked." If a worker is fulfilling multiple offers at once, minimum payment is calculated/spread across orders being fulfilled simultaneously*

App-Based Worker Transparency Standard (1/2)

Up-Front Disclosures for workers to make informed choices about which offers to accept.

1. Estimate of engaged time
2. Estimate of engaged miles
3. Guaranteed minimum payment
4. Amount of tip if customer has indicated they will provide tip
5. Names of any businesses if offer requires stops at businesses
6. Information regarding physical labor to perform services and accessibility of locations (i.e. weight of goods to be handled, flights of stairs, elevators available, etc.), to the extent reasonably ascertainable.
7. Information about unsealed contents of order, to the extent reasonably ascertainable.

App-Based Worker Transparency Standard (2/2)

- Electronic receipts within 24 hours for each completed and/or cancelled offer
 - Worker receipt
 - Customer receipt
- Weekly receipt to worker on completed and/or cancelled offers
- Disclosure to OLS of records to administer, evaluate, and enforce the provisions of this Chapter 8.37.

App-Based Worker Flexibility Standard

1. An app-based worker can't be subjected to an "adverse action" for limiting their hours of availability or rejecting offers
2. A network company can't restrict when an app-based worker can be logged into the app, except under certain instances of deactivation or when necessary to limit consecutive work time in the interest of safety
3. An app-based worker can't be subjected to an "adverse action" for cancelling offers with cause (as defined in ordinance)

Current Context

- Ordinance went into effect on January 13, 2024
- Network Companies raised delivery fees and service fees, and some added a Seattle-specific fee
- Reports of fewer customer orders and longer wait times for workers to receive offers, impacting worker earnings
- Other reports of worker earnings remaining steady, but with fewer offers
- Proposed revisions by stakeholders

Pay Standard Proposed Revisions (1/2)

Provision	Current Requirements	Proposed Revision
Minimum Pay Evaluation	Network companies must satisfy minimum pay requirements for each completed offer.	Minimum earnings must be satisfied for all engaged time and engaged miles across an earnings period. Earnings period must not exceed 14 days.
Minimum Engaged Time Pay	Network companies are required to ensure workers earn at least \$0.44/ engaged minute.	Associated Cost and Time Factors removed. Network companies are required to ensure workers earn at least \$19.97/engaged hour .
Minimum Engaged Mile Pay	Network companies are required to ensure workers earn at least \$0.74/engaged mile.	Network companies are required to ensure workers earn at least \$0.35/engaged mile .
Minimum Per Offer Payment	Network companies must ensure that workers earn at least \$5/offer.	Removed – not required to satisfy earnings obligations across an earnings period.

Pay Standard Proposed Revisions (2/2)

Provision	Current Requirements	Proposed Revision
Engaged Time	For on-demand offers, engaged time begins at acceptance of an offer and ends upon completion of the offer, cancellation of the offer by the network company or customer, or cancellation by the worker for cause. Includes participation in a training program.	For on-demand offers, begins after acceptance when “en route” to fulfill the offer and ends upon completion of the offer or cancellation of the offer by the network company or customer. Offers canceled with cause by the app-based worker incur no engaged time, except if the cancellation is due to a customer substantially changing the drop-off location after the worker has picked up the item.
Deductions	Can only make deductions from compensation when authorized by worker; a network company cannot derive any benefit from deductions.	Clarifies that a fee charged to a worker to access or transfer their earnings before the end of the network company’s pay period is not considered a deduction, provided it’s not more than \$5.
Incentives	Incentives paid to a worker by the network company <u>do not</u> count towards minimum earnings requirements.	Incentives paid to the worker by the network company <u>may</u> count towards minimum earnings requirements.

Transparency Proposed Revisions (1/4)

Provision	Current Requirements	Proposed Revision
Upfront Information	<p>A network company must provide the following information as part of each offer:</p> <ul style="list-style-type: none"> • Estimated engaged time • Estimated engaged miles, including pickup and dropoff locations for deliveries • A guaranteed network company payment • Amount of each tip, if applicable • If performance requires stops at businesses, the name of such businesses • Information about physical labor and accessibility • Information about unsealed contents of each order 	<p>A network company must provide the following information as part of each offer:</p> <ul style="list-style-type: none"> • Estimated engaged time • Estimated engaged miles • A guaranteed amount of compensation • If performance requires pickup of items at a business, the name of such businesses
Offer Review Time	<p>A network company must make an on-demand offer available to a worker for at least <u>2 minutes</u>.</p>	<p>Offer review time reduced to <u>45 seconds</u>.</p>

Transparency Proposed Revisions (2/4)

Provision	Current Requirements	Proposed Revision
Offer Receipt	<p>A network company must provide a worker an offer receipt with <u>24</u> hours of completion that includes the following:</p> <ul style="list-style-type: none"> ● Total engaged time ● Total engaged miles ● Compensation itemized by: (1) network company payment and method for calculating; (2) total incentives; (3) tips; (4) deductions itemized by type, and; (5) net compensation ● Itemized fees collected from the worker for accessing the platform ● Locations of engaged time and miles, including pickup and dropoff locations ● Other information as required by rules 	<p>A network company must provide an offer receipt with <u>48</u> hours that includes the following information:</p> <ul style="list-style-type: none"> ● Total engaged time ● Total engaged miles ● Compensation itemized by: (1) network company payment, including incentives; (2) tips; (3) deductions itemized by type, and; (4) net compensation ● Itemized fees collected from the worker for accessing the platform ● Locations of engaged time and miles

Transparency Proposed Revisions (3/4)

Provision	Current Requirements	Proposed Revision
Weekly / Earnings Period Receipt	<p>A network company must provide the following information to an app-based worker on a weekly basis for all offers during the period:</p> <ul style="list-style-type: none"> ● Total engaged time ● Total engaged miles ● Compensation itemized by: (1) network company payment and method for calculating; (2) total incentives; (3) tips; (4) deductions itemized by type, and; (5) net compensation ● Itemized fees collected from the worker for accessing the platform ● Other information as required by rules 	<p>A network company must provide the following information to an app-based worker on an earnings period basis for all offers during the period:</p> <ul style="list-style-type: none"> ● Total engaged time ● Total engaged miles ● Compensation itemized by: (1) network company payment, including incentives; (2) supplemental payment to satisfy the minimum earnings requirement; (3) tips; (4) deductions itemized by type, and; (5) net compensation ● Itemized fees collected from the worker for accessing the platform

Transparency Proposed Revisions (4/4)

Provision	Current Requirements	Proposed Revision
Consumer Receipt	<p>A network company must provide a paying customer with a receipt within 24 hours that includes:</p> <ul style="list-style-type: none"> • Date and time of completion of the online order • Total amount paid to the network company itemizing all charges, fees, and customer paid tips • Other information as required by rules 	Removed
On-going Access	N/A	A network company is not required to make information about customer or other party available on an ongoing basis where that information has been deleted at the request of the customer or third party.
Affirmative Record Production	A network company is required to affirmatively transmit “aggregated or disaggregated records deemed necessary, appropriate, or convenient to administer, evaluate, and enforce” the Chapter, subject to Rules	Removed

Flexibility Proposed Revisions (1/4)

Provision	Current Requirements	Proposed Revision
Hours of Availability; Acceptance or Rejection of Offers	A network company shall not subject a worker to any adverse action for limiting hours availability or their acceptance or rejection of any individual offer, types of offers, or proportion of offers.	A network company shall not terminate the contract of a worker for limiting hours availability or their acceptance or rejection of any individual offer, types of offers, or proportion of offers.
Platform Access	A network company shall allow a worker to be logged into the network company at any date or time of date unless the worker is deactivated or the network company imposes a limit on consecutive work time to protect worker and public safety.	A network company must disclose the reasons that a worker may not be able to log into the network company's worker platforms at a particular date or time of date, including use of a system to limit access during periods of low demand, providing workers with periods of time to receive offers and no such periods are available, or limitations on consecutive work time to protection worker and public safety.

Flexibility Proposed Revisions (2/4)

Provision	Current Requirements	Proposed Revision
Cancellation for Cause	<p>A network company shall not subject a worker to any <u>adverse action</u> for cancelling acceptance of an offer with cause when any of the following conditions occur:</p> <ul style="list-style-type: none"> ● Information provided as part of the upfront offer is substantially inaccurate ● The worker cannot complete performance of the offer because the customer is not present or fails to respond to communications from the worker ● Timely completion of offer is impractical due to unforeseen circumstances ● The worker makes a good faith complaint regarding sexual harassment or discrimination 	<p>A network company shall not <u>terminate the contract</u> of a worker for cancelling acceptance of an offer with cause when any of the following conditions occur:</p> <ul style="list-style-type: none"> ● The worker is providing delivery service and the customer substantially changes the drop-off location after the worker has picked up the items ● The worker experiences a vehicle incident or malfunction that prevents completion of the offer ● The worker experiences a medical emergency that prevents completion of the offer ● Worker is providing delivery services and all items have already been picked up from the pickup location ● Requires transporting an item weighing more than 50 lbs, which was not disclosed prior ● [cont'd on next slide]

Flexibility Proposed Revisions (3/4)

Provision	Current Requirements	Proposed Revision
Cancellation for Cause	[see previous slide]	<p>[cont'd from previous slide]</p> <p>A network company shall not <u>terminate the contract</u> of a worker for cancelling acceptance of an offer with cause when any of the following conditions occur:</p> <ul style="list-style-type: none"> • Requires transporting an item longer than 63 linear inches, and was not disclosed prior • Requires handling an unsealed container whose contents pose a health risk to the worker, unless the network company disclosed that the offer contained the item prior or would be reasonably expected based on other information provided about the offer <ul style="list-style-type: none"> • See next slide for unsealed container definition • The worker makes a good faith complaint regarding sexual harassment or discrimination
Abuse of Cancellation for Cause	N/A	Clarifies that a network company can take action based on a pattern of behavior that a reasonable person would conclude constitutes abuse of the ability to cancel for cause.

Flexibility Proposed Revisions (4/4)

Provision	Current Requirements	Proposed Revision
<p>Unsealed Defined</p>	<p>Unsealed means loose items or items in packaging that have the potential to open, spill, or otherwise expose an app-based worker to its contents, including delivery bags, boxes, or other containers designed to allow customers to transport hot foods or groceries to their homes. Unsealed does not include individual items pre-packaged into a bag, box, or other container that is sealed in a manner designed to keep contents securely contained, inaccessible, and out of view of the worker.</p>	<p>“Unsealed” means loose items or items in packaging that have the potential, <u>under normal conditions of handling</u>, to open, spill, or otherwise expose an app-based worker to its contents. An item is not unsealed when: (1) The item’s own packaging is designed to prevent leaks or spills under normal conditions of handling (e.g., factor-sealed); 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.</p>

Enforcement Proposed Revisions (1/3)

Provision	Current Requirements	Proposed Revision
Notice of Rights Distribution – Language Access	A network company must provide a notice of rights via smartphone application, email, or web portal in English and any language the network company knows or has reason to know is the primary language of a worker.	Required languages are only those for which the Director issues a model notice of rights as required by the ordinance.
Network company records	A network company must retain records that document compliance for at least three years.	States that the Director cannot require production of records other than through a lawful request relating to an enforcement action.

Enforcement Proposed Revisions (2/3)

Provision	Current Requirements	Proposed Revision
Retaliation	<ul style="list-style-type: none"> No network company shall interfere with, restrain, or deny the exercise of any risk protected under Chapter 8.37. A network company is prohibited from taking any <u>adverse action</u> because the person has exercised in good faith the rights protected under Chapter 8.37. No network company may communicate to a person exercising their rights the willingness to inform a government worker that the person is not lawfully present in the U.S. It's a rebuttable presumption of retaliation if the network company takes an adverse action within 90 days. Proof of retaliation shall be sufficient upon showing that an adverse action was taken and the person's exercise of rights was a motivating factor. 	<p>No network company shall <u>retaliate</u> because the person has exercised in good faith the rights protected under Chapter 8.37.</p> <p>Removes definition of “adverse action” and leaves “retaliate” undefined.</p> <p>Removes rebuttable presumption provision.</p>

Enforcement Proposed Revisions (3/3)

Provision	Current Requirements	Proposed Revision
Rulemaking	The Director is authorized to promulgate, revise, or rescind rules and regulations deemed necessary, appropriate, or convenient to administer, evaluate and enforce Chapter 8.37.	Imposes restrictions on rulemaking authority.
Non-Willful Violations	N/A	Clarifies that the Director should provide network companies with reasonable time to cure violations before assessing civil penalties as long as a violation is non-willful, does not result in unpaid compensation, and the network company is in substantial compliance with Chapter 8.37.
Private right of action	Any person or class of persons may bring a civil action in a court against a network company.	Removed.

Stakeholder Proposal Takeaways

Pay Standard

- Reduce/Remove minimum wage adjustments (Cost Factor, Time Factor, Mileage Rate, Mileage Factor) resulting in **\$19.97/hour + \$0.35/mile**
- Engaged time (paid time) is calculated when worker is “en route” instead of upon acceptance
- No payment for offers cancelled with cause, unless a customer substantially changes drop-off location after item is picked up
- Earnings offered over a pay period, instead of per-offer
- Incentives and bonuses can count toward minimum earnings standard

Transparency

- Remove from up-front disclosure: delivery locations, accessibility, unsealed contents, and customer tip
- Reduce time to review offer
- Reduce information transmitted in worker receipts
- Eliminate requirements for receipts to customer
- Eliminate OLS’s ability to get information from companies for administration, evaluation, and enforcement
- Allow restriction of ongoing information about customer or 3rd party available to worker, if user requested

Flexibility

- Clarify requirements to allow rewards/incentives for 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)
- Allow for company to limit worker access to the app, if they disclose reason
- Narrow and specify the list of reasons a worker can cancel an offer with cause (and therefore not be penalized for cancellation)

Enforcement

- Changes to labor standards enforcement provisions

Next Steps

- Draft legislation for introduction and referral
- Committee discussion and issue identification
- Possible amendments and final Committee vote
- Full Council

Questions?