

CB 120580 – App-Based Worker Deactivation Rights Ordinance Proposed Amendment Packet
 Public Safety & Human Services Committee – Monday, July 17, 2023

No.	Short title	Sponsor(s)	Pg.
8b	Revise requirements for substantiating deactivation	Nelson	1
10a	Revise requirements for affirmative production of records	Nelson	2
10b	Revise requirements for affirmative production of records	Lewis	4
11	Revise requirements for notice of rights	Nelson	6
12	Revise network company recordkeeping requirements	Nelson	8
13	Revise private right of action	Pedersen	10
14	Remove certain instances of subjective language	Nelson	15
15	Make technical corrections clarifying OLS enforcement role	Herbold & Lewis	19

Note: Highlighted amendments are mutually exclusive/conflicting.

Previously Discussed

No.	Short title	Sponsor(s)	Pg.
1	Allow for temporary deactivations unrelated to the worker’s actions	Herbold & Lewis	--
2a	Broaden definition of egregious misconduct	Herbold and Lewis	--
2b	Broaden definition of egregious misconduct	Nelson	--
2c	Broaden definition of egregious misconduct	Pedersen	--
3	Clarify when moving violations can constitute egregious misconduct	Herbold & Lewis	--
4	Narrow threshold for app-based worker coverage	Nelson	--
5a	Exclude marketplace network companies and certain other companies from coverage	Nelson	--
5b	Exclude pet care service companies from coverage	Pedersen	--
6f	Revise pre-deactivation requirements for completion of investigation	Herbold	--
7b	Revise notice of deactivation requirements	Pedersen	--
8a	Revise requirements for records substantiating deactivation when deactivation based on a complaint	Herbold & Lewis	--

Withdrawn

No.	Short title	Sponsor(s)	Pg.
6a	Revise fair notice deactivation requirement	Nelson	--
6b	Revise reasonable policy requirement	Nelson	--
6c	Revise pre-deactivation investigation requirement	Nelson	--
6d	Remove proportionate penalty requirement	Nelson	--
6e	Revise egregious misconduct investigation requirement	Nelson	--
7a	Revise notice of deactivation requirements	Nelson	--
9	Revise Internal Deactivation Challenge Procedure	Nelson	--

Amendment 8b Version 3 to CB 120580 App-Based Worker Deactivation Rights Ordinance

Sponsor: Councilmember Nelson

Revise requirements for substantiating deactivation.

Effect: This amendment would revise the requirement for network companies to establish an accessible system for app-based workers to access their receipts for performed and cancelled offers as follows:

1. Limit the requirement to network companies covered by Chapter 8.37 (App-Based Worker Minimum Payment Ordinance).
2. Remove reference to network companies covered by Chapter 14.34 (Independent Contractor Protections Ordinance).

As a result of this amendment, marketplace network companies would not be required to establish this accessible system. Marketplace network companies are not covered by Chapter 8.37 and are covered by Chapter 14.34 only for services performed for commercial hiring entities (i.e., businesses).

Marketplace network companies would still be required to comply with other access to records requirements and would be subject to a rebuttable presumption of violation if the company failed to disclose adequate records to the app-based worker.

Amend Section 2 of CB 120580 as follows:

8.40.080 Access to records substantiating deactivation

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E. Network companies covered by Chapter 8.37 shall establish an accessible system for app-based workers to access their receipts ~~((and/or payment disclosures))~~ for each offer performed or cancelled, pursuant to subsection 8.37.070.B ~~((and Section 14.34.060))~~. Network companies shall make this system available to the app-based worker via smartphone application or online web portal. This accessible system shall be available to an app-based worker at least three years after deactivation.

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Amendment 10a Version 1 to CB 120580 App-Based Worker Deactivation Rights Ordinance

Sponsor: Councilmember Nelson

Revise requirements for affirmative production of records.

Effect: This amendment would revise network company requirements for affirmative production of records as follows:

1. Require affirmative transmittal of records to the Agency on at least a yearly basis;
2. Remove the requirement for network companies to provide documents as they are updated; and
3. Remove from the list of records production the reference to any other records that the Director deems material and necessary to effectuate the purposes of this Chapter.

Amend Section 2 of CB 120580 as follows:

8.40.090 Affirmative production of records

A. A network company shall affirmatively transmit to the Agency such records as required by rules issued by the Director, on at least a ~~((quarterly))~~ yearly basis ~~((or as documents are updated by the network company))~~. 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 8.40. 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, as defined in Section 8.37.020.

1. Records for production may include:

a. Records regarding the number of deactivations initiated by a network company;

b. Records regarding the reasons for deactivation most commonly referred to, such as the rule or policy violated by the app-based worker;

c. The number of app-based workers challenging their deactivation and the forum in which they are pursuing a challenge;

d. The number of app-based workers reinstated after deactivation, length of deactivation prior to reinstatement, and length of service prior to deactivation;

e. The network company's deactivation policy; and

f. The network company's internal deactivation challenge procedure, pursuant to Section 8.40.060, including the available methods of contact for an app-based worker to initiate a challenge. (~~and~~

~~g. Any other records that the Director determines are material and necessary to effectuate the purposes of this Chapter 8.40.))~~

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Amendment 10b Version 1 to CB 120580 App-Based Worker Deactivation Rights Ordinance

Sponsor: Councilmember Lewis

Revise requirements for affirmative production of records.

Effect: This amendment would revise network company requirements for affirmative production of records as follows:

1. Require affirmative transmittal of records to the Agency on at least a quarterly basis until July 1, 2026, and at least every six months thereafter; and
2. Remove the requirement for network companies to provide documents as they are updated.

Requiring records on at least a quarterly basis until July 1, 2026 would temporarily provide the Agency with more frequent information to inform the implementation report (required under Section 4 of the ordinance) that is due to Council no later than September 1, 2026.

Amend Section 2 of CB 120580 as follows:

8.40.090 Affirmative production of records

A. A network company shall affirmatively transmit to the Agency such records as required by rules issued by the Director, on at least a quarterly basis ~~((or as documents are updated by the network company))~~ until July 1, 2026, and at least every six months thereafter.

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 8.40. 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, as defined in Section 8.37.020.

1. Records for production may include:

- a. Records regarding the number of deactivations initiated by a network company;
- b. Records regarding the reasons for deactivation most commonly referred to, such as the rule or policy violated by the app-based worker;
- c. The number of app-based workers challenging their deactivation and the forum in which they are pursuing a challenge;
- d. The number of app-based workers reinstated after deactivation, length of deactivation prior to reinstatement, and length of service prior to deactivation;
- e. The network company's deactivation policy;
- f. The network company's internal deactivation challenge procedure, pursuant to Section 8.40.060, including the available methods of contact for an app-based worker to initiate a challenge; and
- g. Any other records that the Director determines are material and necessary to effectuate the purposes of this Chapter 8.40.

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Amendment 11 Version 2 to CB 120580 App-Based Worker Deactivation Rights Ordinance

Sponsor: Councilmember Nelson

Revise requirements for notice of rights for marketplace network companies.

Effect: This amendment would exclude marketplace network companies from the requirement to establish an accessible system for app-based workers to understand their eligibility to challenge a deactivation.

In place of establishing an accessible system, marketplace network companies would be required to provide such information upon request to the app-based worker via email.

Amend Section 2 of CB 120580 as follows:

8.40.100 Notice of rights

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D. Network companies other than marketplace network companies shall establish an accessible system for app-based workers to understand their eligibility to challenge a deactivation, pursuant to subsection 8.40.030.A. ~~((Network companies shall make t))~~ This system shall be available to the app-based worker via smartphone application or online web portal. This system shall be available to an app-based worker, at least three years after deactivation. The Director may issue rules defining reasonable criteria or requirements for this system to ensure that app-based workers have sufficient information to understand when they are covered by the entirety of this Chapter 8.40, including but not limited to notice of coverage by this Chapter 8.40, the number of offers completed or cancellations in the previous 180 days, the number of completed offers or cancellations that involved performing services in Seattle in the previous 180 days, the overall percentage of completed offers that involved performing services in Seattle in

the previous 180 days, and the app-based worker's receipts and/or payment disclosures for each offer performed or cancelled in the previous 180 days, pursuant to subsection 8.37.070.B and Section 14.34.060.

E. Marketplace network companies shall provide sufficient information for app-based workers to understand their eligibility to challenge a deactivation upon request by the app-based worker. Marketplace network companies shall make this information available upon request to the app-based worker via email. Marketplace network companies shall make this information available to an app-based worker, at least three years after deactivation. The Director may issue rules defining reasonable criteria or requirements to ensure that app-based workers have sufficient information to understand when they are covered by the entirety of this Chapter 8.40, including but not limited to notice of coverage by this Chapter 8.40, the number of offers completed or cancellations in the previous 180 days, the number of completed offers or cancellations that involved performing services in Seattle in the previous 180 days, and the overall percentage of completed offers that involved performing services in Seattle in the previous 180 days.

Amendment 12 Version 1 to CB 120580 App-Based Worker Deactivation Rights Ordinance

Sponsor: Councilmember Nelson

Revise network company recordkeeping requirements.

Effect: This amendment would revise recordkeeping requirements as follows:

1. Remove the requirement to retain a compliance file; and
2. Remove the rebuttable presumption that failure to retain records constitutes a violation.

Amend Section 2 of CB 120580 as follows:

8.40.110 Network company records

A. Network companies shall retain records that document compliance with this Chapter 8.40 for each deactivation of an app-based worker. ~~((, including, at a minimum, a compliance file for each deactivation. The Director may issue rules governing the format of the records needed to constitute compliance of this Section 8.40.110. The Director may also issue rules governing the form, format, and content of the compliance file for each deactivation. This compliance file may include:~~

- ~~1. The deactivation notice provided to the app-based worker, pursuant to Section 8.40.070;~~
- ~~2. Date of completion of investigation;~~
- ~~3. Whether the deactivation involved egregious misconduct and, if so, the egregious misconduct at issue;~~
- ~~4. Whether the deactivation investigation includes extraordinary circumstances, pursuant to subsection 8.40.050.B and, if so, the extraordinary circumstances at issue;~~
- ~~5. Number of offers completed in the 180 days prior to deactivation notice;~~

~~6. Number of completed offers that involved performing services in Seattle in the 180 days prior to deactivation notice;~~

~~7. Date of deactivation challenge according to the network company's internal deactivation challenge procedure;~~

~~8. All responses to an app-based worker regarding a deactivation challenge, pursuant to subsections 8.40.060.B and 8.40.080.C; and~~

~~9. Any other records pursuant to Director's Rules.))~~

B. Network companies shall retain the records required by subsection 8.40.110.A for a period of three years.

~~((C. If a network company fails to retain adequate records required under subsection 8.40.110.A, there shall be a presumption, rebuttable by clear and convincing evidence, that the network company violated this Chapter 8.40 for the relevant periods and for each app-based worker for whom records were not retained. This presumption is substantive and necessary to effectuate the rights provided in this Chapter 8.40.))~~

Amendment 13 Version 1 to CB 120580 App-Based Worker Deactivation Rights Ordinance

Sponsor: Councilmember Pedersen

Revise private right of action.

Effect: This amendment would revise the private right of action section to remove the ability of “any person or class of persons” to bring a civil action for violation of this Chapter 8.40, and instead limit it to “any app-based worker or class of app-based workers.”

This amendment would prevent an entity from bringing an action if a member has suffered an injury or retaliation due to a violation of this Chapter, or from bringing an action on behalf of aggrieved workers.

Amend Section 2 of CB 120580 as follows:

8.40.230 Private right of action

A. Any ~~((person or class of persons))~~ app-based worker or class of app-based workers that suffers an injury as a result of a violation of this Chapter 8.40, or is the subject of prohibited retaliation under Section 8.40.120, may bring a civil action in a court of competent jurisdiction against the network company or other person violating this Chapter 8.40 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; liquidated damages in an additional amount of up to twice the unpaid compensation; a penalty payable to the aggrieved party of up to \$6,230.88 if the aggrieved party was subject to prohibited retaliation; and other civil penalties and fines payable to any aggrieved party, consistent with Section 8.40.170. 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 as amended.

~~((B. For purposes of this Section 8.40.230, “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.~~

~~€.)~~ B. For purposes of determining membership within a class of ~~((persons))~~ app-based workers entitled to bring an action under this Section 8.40.230, two or more app-based workers are similarly situated if they:

1. Performed similar 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.))~~ C. For purposes of subsection 8.40.230. ~~((€))~~ B. 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.))~~ D. An order issued by a court may include a requirement for a network company to submit a compliance report to the court and/or to the Agency.

Amendment 14 Version 1 to CB 120580 App-Based Worker Deactivation Rights Ordinance

Sponsor: Councilmember Nelson

Remove certain references to fair, reasonable, reasonably, and objective in legislation.

Effect: This amendment would remove certain references to the following words throughout the legislation: fair, reasonable, reasonably, and objective.

Amend Section 1 of CB 120580 as follows:

* * *

I. App-based workers are subject to network company policies that unilaterally deactivate workers for a variety of reasons without consistent access to a ~~((fair))~~ process for such deactivations, nor do the workers have access to responsive network company personnel with the power to correct unwarranted deactivations by in-person meetings or telephone.

* * *

U. Establishing a ~~((reasonable))~~ standard for the deactivations of app-based workers as well as the ability to challenge unwarranted deactivations will help ensure that thousands of app-based workers who provide vital services in Seattle will be able to enjoy a measure of job security.

* * *

Amend Section 2 of CB 120580 as follows:

8.40.020 Definitions

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“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 retaliatory ~~((unfair))~~ immigration-related practices; filing a false report with a government agency; or discriminating against any person for any reason prohibited by Section 8.40.120. “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 8.40.

8.40.050 Deactivation requirements

A. A network company shall adopt the following measures prior to deactivating an app-based worker, except as provided in subsection 8.40.050.C:

1. ~~((Fair))~~ Notice of deactivation policy. A network company must inform the app-based worker in writing of the network company’s deactivation policy, defining what constitutes a violation that may result in deactivation. The network company’s written deactivation policy must be specific enough for an app-based worker to understand what constitutes a violation and how to avoid violating the policy. The deactivation policy must be available to the app-based worker in English and any language that the network company knows or has reason to know is the primary language of the app-based worker. The deactivation policy must be accessible to the app-based worker at least three years after deactivation. The Director may issue rules governing the form and description of the deactivation policy, the manner of its distribution, and required languages for its translation.

2. ~~((Reasonable p))~~ Deactivation Policy. The policy that may lead to a deactivation must be ~~((reasonably))~~ related to the network company's safe and efficient operations. Examples of policies that are not ~~((reasonably))~~ related to the network company's safe and efficient operations include, but are not limited to:

* * *

3. Investigation. A network company must conduct ~~((a fair and objective))~~ an investigation prior to deactivating an app-based worker. The investigation must be sufficiently thorough to justify the deactivation and demonstrate an unbiased and neutral view of facts collected.

* * *

6. Proportionate penalty. The penalty of deactivation must be ~~((reasonably))~~ related to the offense, and account for mitigating circumstances, such as the app-based worker's past work history with the network company.

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8.40.080 Access to records substantiating deactivation

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D. If the records substantiating deactivation involve information related to a customer or a third party and the network company ~~((reasonably))~~ believes that information could compromise the customer or third party's safety, the network company may take measures to anonymize information related to that customer or third party. The Director may issue rules regarding the measures taken to anonymize information related to a customer or third party.

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8.40.100 Notice of rights

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D. Network companies shall establish an accessible system for app-based workers to understand their eligibility to challenge a deactivation, pursuant to subsection 8.40.030.A. Network companies shall make this system available to the app-based worker via smartphone application or online web portal. This system shall be available to an app-based worker, at least three years after deactivation. The Director may issue rules defining ((reasonable)) criteria or requirements for this system to ensure that app-based workers have sufficient information to understand when they are covered by the entirety of Chapter 8.40, including but not limited to notice of coverage by this Chapter 8.40, the number of offers completed or cancellations in the previous 180 days, the number of completed offers or cancellations that involved performing services in Seattle in the previous 180 days, the overall percentage of completed offers that involved performing services in Seattle in the previous 180 days, and the app-based worker's receipts and/or payment disclosures for each offer performed or cancelled in the previous 180 days, pursuant to subsection 8.37.070.B and Section 14.34.060.

8.40.160 Findings of fact and determination

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4. The Director's Order may direct the respondent to take such corrective action as is necessary to comply with the requirements of this Chapter 8.40, including but not limited to monitored compliance for a ((reasonable)) time period.

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8.40.170 Remedies

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B. A respondent found to be in violation of this Chapter 8.40 shall be liable for full payment of unpaid compensation due plus interest in favor of the aggrieved party for the period of deactivation under the terms of this Chapter 8.40, and other equitable relief.

1. If the precise amount of unpaid compensation cannot be determined due to a respondent's failure to produce records or if a respondent produces records in a manner or form which makes timely determination of the amount of unpaid compensation impracticable, the Director may:

a. Determine unpaid compensation as a matter of just and reasonable inference, including the use of representative evidence such as testimony or other evidence from representative employees or other aggrieved parties establishing violations for a class of employees or aggrieved parties; or

b. Assess a daily amount for unpaid compensation plus interest in favor of the aggrieved party in a minimum amount of at least the equivalent of payment for eight hours of work at the "hourly minimum wage" rate for Schedule 1 employers under Chapter 14.19.

* * *

G. In addition to the unpaid compensation, penalties, fines, liquidated damages, and interest, the Agency may assess against the respondent in favor of the City the ((reasonable)) costs incurred in enforcing this Chapter 8.40, including but not limited to ((reasonable)) investigation costs and attorneys' fees. The Director may issue rules on the amounts and contributing factors for assessing ((reasonable)) investigation costs and is strongly encouraged to

assess such costs in favor of the City to support the Agency's implementation of this Chapter 8.40.

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8.40.210 Failure to comply with final order

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B. No respondent that is the subject of a final order issued under this Chapter 8.40 shall quit business, sell out, exchange, convey, or otherwise dispose of the respondent's business or stock of goods without first notifying the Agency and without first notifying the respondent's successor of the amounts owed under the final order at least three business days before such transaction. At the time the respondent quits business, or sells out, exchanges, or otherwise disposes of the respondent's business or stock of goods, the full amount of the remedy, as defined in a final order issued by the Director or the Hearing Examiner, shall become immediately due and payable. If the amount due under the final order is not paid by respondent within ten days from the date of such sale, exchange, conveyance, or disposal, the successor shall become liable for the payment of the amount due; provided, that the successor has actual knowledge of the order and the amounts due or has prompt, ~~((reasonable,))~~ and effective means of accessing and verifying the fact and amount of the order and the amounts due. The successor shall withhold from the purchase price a sum sufficient to pay the amount of the full remedy. When the successor makes such payment, that payment shall be deemed a payment upon the purchase price in the amount paid, and if such payment is greater in amount than the purchase price the amount of the difference shall become a debt due such successor from the network company.

8.40.230 Private right of action

A. Any person or class of persons that suffers an injury as a result of a violation of this Chapter 8.40, or is the subject of prohibited retaliation under Section 8.40.120, may bring a civil action in a court of competent jurisdiction against the network company or other person violating this Chapter 8.40 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; liquidated damages in an additional amount of up to twice the unpaid compensation; a penalty payable to the aggrieved party of up to \$6,230.88 if the aggrieved party was subject to prohibited retaliation; and other civil penalties and fines payable to any aggrieved party, consistent with Section 8.40.170. 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 as amended.

Amendment #15 Version 1 to CB 120580 – App-Based Worker Deactivation Rights

Sponsor: Councilmembers Herbold and Lewis

Make Technical Corrections Clarifying OLS Enforcement Role

Effect: This amendment would do the following:

1. Clarify that the deactivation requirements for cases of egregious misconduct are triggered when the network company reasonably believes an app-based worker has engaged in egregious misconduct.
2. Remove the extraneous provision, “A network company shall not subject an app-based worker to unwarranted deactivation,” which may be interpreted to obligate OLS to investigate individual cases of deactivation, in conflict with Section 8.40.130.B.
3. Clarify that the Agency shall not have the power to enforce subsections 8.40.050.A.3, 8.40.050.A.4, 8.40.050.A.5, 8.40.050.A.6, and 8.40.050.B until June 1, 2027

Amend Section 2 of CB 120580 as follows:

8.40.050 Deactivation requirements

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2. Reasonable policy. The policy that may lead to a deactivation must be reasonably related to the network company’s safe and efficient operations. Examples of policies that are not reasonably related to the network company’s safe and efficient operations include, but are not limited to:

a. Any rule or policy that would result in a deactivation based on an app-based worker’s availability to work or number of hours worked, consistent with subsection 8.37.080.A.1;

b. Any policy that would result in a deactivation based on an app-based worker’s acceptance or rejection of any individual offer, any types of offers, or any number or proportion of offers, consistent with subsection 8.37.080.A.2;

c. Any policy that would result in a deactivation based on an app-based worker's cancellation of an offer with cause, consistent with subsection 8.37.080.C;

d. Any policy that would result in a deactivation based on an app-based worker contacting the network company;

e. Any policy that would result in a deactivation based solely on a quantitative metric derived from aggregate customer ratings of an app-based worker's performance;

f. Any policy that would result in a deactivation based on statements by an app-based worker regarding compensation and/or working conditions made to customers, other app-based workers, network companies, the media, public officials, and/or the public;

g. Any policy that would result in a deactivation based on an app-based worker asserting their legal rights, whether in court or via procedures provided by any local, state, or federal agency; and

h. Any policy that would deactivate a worker based on the results of a background check, consumer report, driver record, or record of traffic infractions, except in cases of alleged egregious misconduct pursuant to subsection 8.40.050.C or where required by other applicable law.

* * *

C. Subject to the provisions of this Section 8.40.050 and rules issued by the Director, a network company may immediately deactivate an app-based worker if such action is required to comply with any applicable court order or local, state, or federal laws or regulations, or where the network company reasonably believes an app-based worker has engaged in egregious misconduct.

1. In the case of allegations of egregious misconduct, the network company may deactivate the app-based worker before completing an investigation. The investigation shall not take longer than 14 days except in the case of extraordinary circumstances. If the investigation is delayed due to extraordinary circumstances, the network company must provide the app-based worker with written notice that the investigation is delayed, the reason(s) for the delay, and the date on which the completion of the investigation is anticipated.

8.40.060 Right to challenge deactivation

~~((A. A network company shall not subject an app-based worker to unwarranted deactivation.))~~

~~((B))~~A. An app-based worker shall have a right to challenge the worker's deactivation through an internal deactivation challenge procedure established by the network company.

1. A network company shall create an internal deactivation challenge procedure that shall be available to the app-based worker immediately upon notice of their deactivation and up to 90 days after the app-based worker's receipt of notice.

2. The internal deactivation challenge procedure must be available to the app-based worker in writing, in a format that is readily accessible to the app-based worker, and in English and any language that the network company knows or has reason to know is the primary language of the app-based worker. The written policy describing the deactivation challenge procedure shall be available to the app-based worker at least three years after deactivation. The Director may issue rules governing the form and content of the policy describing the deactivation challenge procedure, the manner of its distribution, and required languages for its translation.

3. A network company shall review and respond to an app-based worker's challenge to deactivation within 14 days of receiving a challenge.

4. A network company's response to a worker's challenge to deactivation must include a written statement certified by an individual at the network company with authority to reinstate the app-based worker. The written statement must include one of the following:

a. Evidentiary substantiation of the deactivation and substantive responses to questions or claims made by the app-based worker in challenging the deactivation;

b. Any extraordinary circumstances necessitating a delayed timeline for response, and an anticipated date for a response either substantiating the deactivation or reinstating the app-based worker; or

c. A determination that the worker did not violate the network company's deactivation policy and therefore must be reinstated on the platform.

~~(E)~~B. In addition to pursuing an internal challenge to deactivation pursuant to subsection 8.40.060.~~(B)~~A, an app-based worker shall have a right to file a complaint with the Agency or bring a civil action for violations of the requirements of this Chapter 8.40 upon receiving the network company's initial response to the internal challenge, or 14 days after initiating a challenge, whichever comes earlier. An app-based worker may pursue all avenues of relief available thereafter within three years of the alleged violation, or as tolled pursuant to subsection 8.40.150.C.

~~(D)~~C. An app-based worker shall have a right to challenge their deactivation and pursue all avenues of relief available to them regardless of the geographic location of the incidents leading to the network company's decision to deactivate the app-based worker.

8.40.070 Notice of deactivation

A. Except as provided under subsection 8.40.070.C, a network company shall provide an app-based worker with notice of deactivation 14 days in advance of the deactivation, as well as

upon the effective date of deactivation. The notice of deactivation shall include a written statement of the following:

1. The reasons for deactivation; including the network company's policy that was violated, pursuant to Section 8.40.050, and the specific incident or pattern of incidents that violated the deactivation policy;
2. The effective date of deactivation;
3. Any and all records relied upon to substantiate deactivation, pursuant to Section 8.40.080;
4. The length of the deactivation;
5. A description of the steps an app-based worker can take to remedy the deactivation;
6. The app-based worker's right to challenge such deactivation under this Chapter 8.40;
7. The network company's process for challenging a deactivation, pursuant to subsection 8.40.060.~~(B)~~A, including the available methods of contact for an app-based worker to initiate a challenge; and
8. Any other items pursuant to Director's Rules.

B. The network company shall provide notice of deactivation in a form and manner designated by the Agency. The Agency may create and distribute a model notice of deactivation in English and other languages as provided by rules issued by the Director. However, network companies are responsible for providing app-based workers with the notice of deactivation required by this subsection 8.40.070, regardless of whether the Agency has created and distributed a model notice of deactivation.

C. For deactivations involving allegations of egregious misconduct, pursuant to subsection 8.40.050.C, the network company shall provide an app-based worker with the notice of deactivation no later than the effective date of deactivation.

8.40.080 Access to records substantiating deactivation

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C. If an app-based worker challenges a deactivation pursuant to subsection 8.40.060.~~(B)~~A, all records of that challenge and any responses must be provided to the worker within 14 days of each submittal or response.

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8.40.100 Notice of rights

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B. The notice of rights shall provide information on:

1. The right to challenge an unwarranted deactivation through a network company's internal deactivation challenge procedure and/or through other avenues pursuant to Section 8.40.060, subject to coverage eligibility under subsection 8.40.030.A;
2. The policy describing the deactivation challenge procedure pursuant to subsection 8.40.060.~~(B)~~A;
3. The right to 14 days' notice of an impending deactivation, except in the case of egregious misconduct;
4. The right to access any and all records relied upon by the network company to substantiate deactivation;
5. The right to be protected from retaliation for exercising in good faith the rights protected by this Chapter 8.40; and

6. The right to file a complaint with the Agency consistent with Section 8.40.130 or bring a civil action for violation of the requirements of this Chapter 8.40.

8.40.110 Network company records

A. Network companies shall retain records that document compliance with this Chapter 8.40 for each app-based worker, including, at a minimum, a compliance file for each deactivation. The Director may issue rules governing the format of the records needed to constitute compliance of this Section 8.40.110. The Director may also issue rules governing the form, format, and content of the compliance file for each deactivation. This compliance file may include:

1. The deactivation notice provided to the app-based worker, pursuant to Section 8.40.070;
2. Date of completion of investigation;
3. Whether the deactivation involved egregious misconduct and, if so, the egregious misconduct at issue;
4. Whether the deactivation investigation includes extraordinary circumstances, pursuant to subsection 8.40.050.B and, if so, the extraordinary circumstances at issue;
5. Number of offers completed in the 180 days prior to deactivation notice;
6. Number of completed offers that involved performing services in Seattle in the 180 days prior to deactivation notice;
7. Date of deactivation challenge according to the network company's internal deactivation challenge procedure;
8. All responses to an app-based worker regarding a deactivation challenge, pursuant to subsections 8.40.060.~~(B)~~A and 8.40.080.C; and

9. Any other records pursuant to Director's Rules.

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8.40.130 Enforcement power and duties

A. Except as provided in subsection 8.40.130.B, on or after January 1, 2025, the Agency shall have the power to administer and enforce this Chapter 8.40 and shall have such powers and duties in the performance of these functions as are defined in this Chapter 8.40 and otherwise necessary and proper in the performance of the same and provided for by law.

B. The Agency shall not have the power to enforce subsections 8.40.050.A.3, 8.40.050.A.4, 8.40.050.A.5, 8.40.050.A.6, and 8.40.050.B until June 1, 2027. Starting June 1, 2027, the Agency may ~~((have the power to))~~ enforce subsections 8.40.050.A.3, 8.40.050.A.4, 8.40.050.A.5, 8.40.050.A.6, and 8.40.050.B. This subsection 8.40.130.B does not limit the ability of an app-based worker to seek other avenues of relief for violations of those subsections.