

Amendment #2 **Version 2 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

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~~((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 affirmatively transmit to the Agency such records as required by this subsection 8.37.070.G, no more than once per quarter. 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.

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Remove Section 7, which reads as follows, and renumber subsequent sections:

8.37.110 Network company records

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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.

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Amend Section 11 of CB 120775 as follows:

8.37.170 Remedies

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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 <u>8.37.070.G</u> <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

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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.