

## **SUMMARY and FISCAL NOTE\***

<b>Department:</b>	<b>Dept. Contact:</b>	<b>CBO Contact:</b>
LEG	Jasmine Marwaha/635-8941	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 app-based worker labor standards; establishing labor standards on deactivation protections for app-based workers working in Seattle; amending Section 3.02.125 of the Seattle Municipal Code; and adding a new Chapter 8.40 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). Network companies typically use algorithms to manage worker access to their platform, designed to maximize efficiency and customer satisfaction. There has been extensive documentation in social science literature and media reports about the negative impacts of algorithmic management on app-based workers, and what the Federal Trade Commission recently called “an invisible, inscrutable boss” that dictates core aspects of work.

Workers report being deactivated from the app-based platform, and thereby cut off from their income source, for reasons such as: rejecting too many orders, delays outside of their control, changing and unpredictable performance expectations, and many times for unknown reasons. Many workers report a lack of substantive response from companies when they try to challenge their deactivation. Workers further report that they are unable to meaningfully challenge their deactivation because the network company has control of the records and information related to the deactivation.

This ordinance would aim to create more stability and job security for app-based workers by requiring network companies to base deactivations on reasonable policies and provide app-based workers notice, records and human review of all deactivations. These requirements would be implemented by the Office of Labor Standards (OLS).

This ordinance would require network companies to give fair notice of their deactivation policy – the reasons that could get a worker deactivated. Those reasons must be reasonably related to the network company’s safe and efficient operations.

This ordinance would also require deactivations to be based on an investigation, that demonstrates by a preponderance of evidence that the app-based worker violated the company’s deactivation policy. The deactivation must also represent consistent application of the policy; it must be proportionate to the offense; and it cannot intend to or result in discrimination.

The ordinance would require all deactivated app-based workers to receive a notice of deactivation (NOD), which includes the records relied upon to substantiate the deactivation, and a description of the network company's internal process for a worker to challenge the deactivation, among other requirements. This NOD must be provided to the worker 14 days in advance of a deactivation, unless the network company alleges that the worker has engaged in egregious misconduct.

If there is an allegation of egregious misconduct, the worker is entitled to receive the NOD on the date of deactivation, and the network company would have up to 10 days after the NOD is issued to complete its investigation. This timeline for investigation may be extended if there are extraordinary circumstances beyond the network company's control delaying the investigation.

Under the proposed ordinance, workers would have a right to challenge their deactivation through an internal procedure, and can do so at any point up to 90 days after receiving the NOD. The network company would have 14 days to respond to the worker's challenge, with a written statement certified by an individual at the network company with authority to reinstate the app-based worker. The worker would then be able to file a complaint with OLS or pursue their private right of action after that initial response, or after 14 days, whichever is earlier.

The network company would be required to provide app-based workers with the records relied upon to substantiate a deactivation. Those records must be certified from an individual at the network company that they are true and accurate records. If new evidence comes to the network company's possession after the NOD, they must provide those records to the worker.

The ordinance also restricts the role of the Office of Labor Standards (OLS) to enforcing the facial policies and procedural requirements, and does not require OLS to review individual deactivations to determine whether they were substantiated. These procedural provisions are meant to address the information asymmetry and power imbalance that would otherwise exist if a worker were to challenge their deactivation in arbitration proceedings.

All network companies with 250 or more app-based workers would be covered under the ordinance. App-based worker coverage would be limited to workers who have had at least 10 percent of their offers in the past 180 days involve performing services in Seattle. After an app-based worker performs one offer in Seattle, they would have the right to receive a notice of rights from the company that includes a system for workers to understand their eligibility to challenge a deactivation under this ordinance, namely when they meet that 10 percent threshold in the previous 180 days.

## 2. CAPITAL IMPROVEMENT PROGRAM

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

☐ Yes ☒ No

If yes, please fill out the table below and attach a new (if creating a project) or marked-up (if amending) CIP Page to the Council Bill. Please include the spending plan as part of the attached CIP Page. If no, please delete the table.

### 3. SUMMARY OF FINANCIAL IMPLICATIONS

**Does this legislation amend the Adopted Budget?**

☐ Yes ☒ No

If there are no changes to appropriations, revenues, or positions, please delete the table below.

**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 it would require \$1,000,000 per year for ongoing implementation costs, including staffing, outreach and communication, community partnerships, and translations. In addition, OLS estimates it would need \$200,000 in one-time funds to support initial implementation. 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.

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 may 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 (if any):**