Legislation Details (With Text)

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Final Action:	6/12/2020	**Ord. No.**	Ord 126091
Title:	AN ORDINANCE relating to gig workers in Seattle; establishing labor standards requirements for paid sick and paid safe time for gig workers working in Seattle; and amending Sections 3.02.125 and 6.208.020 of the Seattle Municipal Code.		
Sponsors:	Teresa Mosqueda		
Indexes:			
Attachments:	1. Summary and Fiscal Note, 2. Central Staff Memo, 3. Proposed Substitute, 4. Proposed Substitute v5a, 5. Summary of Substitute v5a, 6. Signed Ordinance 126091, 7. Affidavit of Publication		

Date	Ver.	Action By	Action	Result
6/12/2020	2	City Clerk	attested by City Clerk	
6/12/2020	2	Mayor	returned	
6/12/2020	2	Mayor	Signed	
6/3/2020	2	City Clerk	submitted for Mayor's signature	
6/1/2020	1	City Council	passed as amended	Pass
5/18/2020	1	City Council	referred	
5/15/2020	1	Council President's Office	sent for review	
5/14/2020	1	City Clerk	sent for review	

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to gig workers in Seattle; establishing labor standards requirements for paid sick and paid safe time for gig workers working in Seattle; and amending Sections 3.02.125 and 6.208.020 of the Seattle Municipal Code.

WHEREAS, the Paid Sick and Safe Time Ordinance, Seattle Municipal Code Chapter 14.16, has been in effect since September 1, 2012 and requires employers to provide employees with paid leave to care for their personal and family members' health conditions or safety needs; and

WHEREAS, the Paid Sick and Safe Time Ordinance entitles employees to use "paid sick time" for absences related to care of a personal or family member's medical diagnosis, care or treatment of a health

condition, illness, injury, or need for preventive medical care; and

WHEREAS, the Paid Sick and Safe Time Ordinance entitles employees to use "paid safe time" for absences related to all workplace closures due to public health emergencies, large employer workplace closures or reduced operations due to any health- or safety- related reasons, closures of a family member's school or place of care, and the need to obtain necessary services for domestic violence, sexual assault and stalking; and

WHEREAS, the new coronavirus 19 (COVID-19) disease is caused by a virus that spreads easily from person to person and may result in serious illness or death and is classified by the World Health Organization as a worldwide pandemic; and

WHEREAS, COVID-19 has broadly spread throughout Washington State and remains a significant health risk to the community, especially members of our most vulnerable populations; and

WHEREAS, the definitions of "employee" and "employer" in local, state and federal law are broad, but food delivery network companies and transportation network companies rely on business models that treat gig workers as "independent contractors," thereby creating barriers for gig workers to access paid sick and paid safe time and other employee protections; and

WHEREAS, providing gig workers with a right to paid sick and paid safe time will reduce the risk of gig workers working if they are sick and could spread illness, if they are needed at home to care for sick or dependent family members, and if they need to obtain critical domestic violence services in a time when reports of domestic violence are increasing; and

WHEREAS, gig workers working for food delivery network companies and transportation network companies during the COVID-19 emergency face magnified risks of catching or spreading disease because the nature of their work can involve close contact with the public, including members of the public who are not showing symptoms of COVID-19 but who can spread the disease; and

WHEREAS, The City of Seattle (City) intends to make it clear that gig workers working for food delivery

network companies and transportation network companies during the COVID-19 emergency have a right to access paid sick and paid safe time; and

WHEREAS, the City intends to make it clear that provision of paid sick and paid safe time should not result in food delivery network companies and transportation network companies reducing a gig worker's compensation, or reducing or otherwise modifying the areas of the City that are served by the companies; and

WHEREAS, the City Council (Council) may reconsider paid sick and paid safe time requirements if the City passes legislation that affords gig workers a right to minimum compensation or if gig workers have access to commensurate paid sick and safe time through another program; and

WHEREAS, the City is a leader on wage, labor, and workforce practices that improve workers' lives, support economic security, and contribute to a fair, healthy, and vibrant economy; and

WHEREAS, establishing a labor standard that requires gig workers working for food delivery network companies and transportation network companies to have access to paid sick and paid safe time during the COVID-19 emergency is a subject of vital and imminent concern to the people of this City and requires appropriate action by the Council to establish this labor standard for gig workers; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council (Council) finds and declares that:

A. In the exercise of The City of Seattle's police powers, the City is granted authority to pass regulations designed to protect and promote public health, safety, and welfare.

B. This ordinance protects and promotes public health, safety, and welfare during the new coronavirus 19 (COVID-19) emergency by requiring food delivery network companies and transportation network companies to provide gig workers working in Seattle with paid sick and paid safe time, which will: alleviate the economic pressures that compel gig workers to work when conditions are not safe; reduce the risk of gig

workers working while sick and spreading illness; increase opportunities for gig workers to stay home and take care of themselves and family members during periods of illness and other health or safety risks; and promote a healthier and more productive workforce with enhanced public health outcomes for gig workers, their families, hiring entities, and the community as a whole during this public health crisis.

C. The World Health Organization (WHO) has declared that COVID-19 is a global pandemic, which is particularly severe in high risk populations such as people with underlying medical conditions and the elderly, and the WHO has raised the health emergency to the highest level, requiring dramatic interventions to disrupt the spread of this disease.

D. On February 29, 2020, Washington Governor Jay Inslee proclaimed a state of emergency in response to new cases of COVID-19, directing state agencies to use all resources necessary to prepare for and respond to the outbreak.

E. On March 3, 2020, Mayor Jenny Durkan proclaimed a civil emergency in response to new cases of COVID-19, authorizing the Mayor to exercise the emergency powers necessary to take extraordinary measures to prevent death or injury of persons and to protect the public peace, safety and welfare, and alleviate damage, loss, hardship or suffering.

F. On March 13, Washington Governor Jay Inslee announced the closure of all public and private K-12 schools in the entire state from March 17 through April 24 and prohibited gatherings of 250 or more across the entire state.

G. On March 16, 2020, Washington State Governor and the Public Health - Seattle & King County Local Health Officer issued parallel orders temporarily shutting down restaurants, bars, and other entertainment and food establishments, except for take-out food.

H. On March 23, Washington Governor Jay Inslee issued a “Stay Home - Stay Healthy” proclamation closing all non-essential workplaces, requiring people to stay home except to participate in essential activities or to provide essential business services, and banning all gatherings for social, spiritual, and recreational

purposes through April 6, 2020. In addition to healthcare, public health and emergency services, the "Stay Home - Stay Healthy" proclamation identified transportation network companies, delivery network companies, and establishments selling groceries and prepared food and beverages as essential business sectors critical to protecting the health and well-being of all Washingtonians and designated their workers as essential critical infrastructure workers.

I. On April 1, 2020, the Seattle Police Department announced a 21 percent increase in reports of domestic violence during the month of March.

J. On April 2, 2020, Washington Governor Jay Inslee extended the "Stay Home - Stay Healthy" proclamation through May 4, 2020.

K. On April 6, 2020, Washington Governor Jay Inslee extended school closures through the end of the 2019-20 school year on June 19, 2020.

L. On May 1, 2020, Washington Governor Inslee extended the "Stay Home - Stay Healthy" proclamation through May 31, 2020 in recognition that the worldwide COVID-19 pandemic and its progression in Washington State continue to threaten the life and health of our people as well as the economy of Washington State, and remain a public disaster affecting life, health, property or the public peace.

M. On May 4, 2020, Washington Governor Jay Inslee announced a "Safe Start" plan that reopens Washington's economy in phases and has restrictions on the seating capacity of restaurants during three of the four phases and physical distancing for high-risk populations and worksites during all four phases.

N. As of May 13, 2020, the World Health Organization Situation Report reported a global total of 4,179,479 cases of COVID-19, including 287,525 deaths; the Washington State Department of Health and Johns Hopkins University reported 17,512 cases of COVID-19, including 975 deaths in Washington State; and Public Health - Seattle & King County reported 7,221 cases of COVID-19, including 514 deaths, in King County.

O. Researchers Stefan Pichler and Nicolas Robert Ziebarth report in "The Pros and Cons of Sick Pay

Schemes: Testing for Contagious Presenteeism and Noncontagious Absenteeism Behavior," that mandatory paid sick leave policies in U.S. cities, including Seattle, clearly and significantly reduced the rates of influenza-like illness.

P. Food delivery network companies and transportation network companies are essential businesses operating in Seattle during the COVID-19 emergency and rely on business models that treat gig workers as independent contractors, thereby creating barriers for gig workers to access paid sick and paid safe time protections and other labor standards established by local, state, and federal law, and making gig workers highly vulnerable to economic insecurity and health or safety risks.

Q. Gig workers working for food delivery network companies and transportation network companies are essential workers who perform services that are fundamental to the health of the community during the COVID-19 crisis. These gig workers provide essential services that support the economy and the community during this crisis. They can work in high risk conditions with inconsistent access to protective equipment and other safety measures; work in public situations with limited or no ability to engage in physical distancing; and continually expose themselves and the public to the spread of disease. Without access to paid sick and paid safe time, these gig workers are more likely to stay on the frontlines of this pandemic if they are sick or have sick family members, thereby jeopardizing their health and the health of the community.

R. In the pursuit of economic opportunity, many gig workers are immigrants and people of color who have taken on debt or invested their savings to purchase and/or lease vehicles or other equipment to work for food delivery network companies and transportation network companies. Therefore, they are highly susceptible to the economic pressures of continuing to work during the COVID-19 emergency even if working is not safe for themselves or others.

S. Gig workers are making deliveries that support community efforts to engage in physical distancing and mitigate the spread of COVID-19 while simultaneously exposing themselves to a higher risk of infection.

T. Gig workers working for transportation network companies provide the majority of for-hire rides in

the City and therefore experience an especially high risk of person to person transmission of infectious disease during the COVID-19 emergency.

U. When gig workers have access to paid leave to care for their personal or family member's health conditions, they are more likely to stay home during the COVID-19 emergency to care for themselves, their children, or other family members who are sick or who have been exposed to an infectious disease, thereby reducing the risk of public exposure to infectious diseases, such as COVID-19.

V. When gig workers have access to paid leave for safety related reasons, they have less risk of economic insecurity during the COVID-19 emergency because they will not lose earnings if they miss work because hiring entities are not operating due to the public health emergency or other health- or safety-related reasons, or because they need to care for family members when schools or places of care are closed.

W. When gig workers have access to paid leave for reasons related to domestic violence, sexual assault, or stalking, they are better able to receive medical treatment, participate in legal proceedings, and obtain other necessary services during the COVID-19 emergency, and are more likely to maintain financial independence to leave abusive situations, achieve safety, and minimize physical and emotional injuries during the COVID-19 emergency.

X. Since the COVID-19 virus spreads from person to person contact, it is essential that gig workers working in Seattle for food delivery network companies and transportation network companies have access to paid sick and paid safe time when they are sick or have been exposed to an infectious disease.

Y. Providing these gig workers with access to paid sick and paid safe time protects public health and supports stable incomes by ensuring that gig workers can provide their services in a safe and reliable manner during the COVID-19 emergency, and also will in turn protect public health and support stable incomes as the economy and community recovers after the COVID-19 emergency.

Z. Washington Governor Jay Inslee's Proclamation 20-28 prohibits all agency actions unless the action is: 1) necessary and routine; or 2) necessary in response to the COVID-19 public health emergency. This

ordinance is necessary in response to the COVID-19 emergency because requiring food delivery network companies and transportation network companies to provide gig workers working in Seattle with paid sick and paid safe time reduces the ongoing threat of this deadly virus to public health, safety, and welfare by ensuring that gig workers who are highly vulnerable to catching or spreading illness due to the public nature of their work and who face economic pressures that encourage working despite the presence of significant health or safety risks can miss work without losing income to care for their personal or family members' health or safety needs.

Section 2. As the substantive effects of this ordinance are not permanent, this ordinance is not intended to be codified. Section numbers are for ease of reference within this ordinance, and section and subsection references refer to numbers in this ordinance unless stated otherwise.

PAID SICK AND SAFE TIME FOR GIG WORKERS

100.005 Short title

This ordinance shall constitute the "Paid Sick and Safe Time for Gig Workers Ordinance" and may be cited as such.

100.010 Definitions

For purposes of this ordinance:

"Adverse action" means reducing the compensation to the gig worker, garnishing gratuities, temporarily or permanently denying or limiting access to work, incentives, or bonuses, offering less desirable work, demoting, terminating, deactivating, putting a gig worker on hold status, failing to rehire after a seasonal interruption of work, threatening, penalizing, retaliating, engaging in unfair immigration-related practices, filing a false report with a government agency, or otherwise discriminating against any person for any reason prohibited by Section 100.055. "Adverse action" for a gig worker may involve any aspect of work, including compensation, work hours, responsibilities, or other material change in the terms and conditions of work. "Adverse action" also encompasses any action by the hiring entity or a person acting on the hiring entity's

behalf that would dissuade a reasonable person from exercising any right afforded by this ordinance.

"Agency" means the Office of Labor Standards and any division therein.

"Aggrieved party" means a gig worker or other person who suffers tangible or intangible harm due to a hiring entity or other person's violation of this ordinance.

"Application dispatch" means technology that allows customers to directly request dispatch of gig workers for provision of delivery or transportation services and/or allows gig workers or hiring entities to accept requests for services and payments for services via the internet using mobile interfaces such as, but not limited to, smartphone and tablet applications.

"Average daily compensation" means the daily average of compensation owed to the gig worker for each day worked for the hiring entity during the highest earning calendar month since October 1, 2019 or since the gig worker's commencement of work for the hiring entity, whichever is later. When calculating the average of daily compensation, the compensation considered for each covered calendar day includes work performed in Seattle and outside Seattle. "Average daily compensation" shall be recalculated every calendar month from the last date of calculation.

"City" means The City of Seattle.

"Compensation" means the total payment owed to a gig worker by reason of working for the hiring entity, including but not limited to hiring entity payments for providing services, bonuses, and commissions, as well as tips earned from customers.

"Commences work" and "commencement of work" means no later than the beginning of the first calendar day on which the gig worker has accepted an offer of prearranged services for compensation by the hiring entity.

"Day worked" or "days worked" means any calendar day(s) that a gig worker accepts an offer of prearranged delivery or transportation services for compensation from a hiring entity, where the work is performed in whole or part in Seattle.

"Day of paid sick and paid safe time" means the average daily compensation amount owed to a gig worker for one 24-hour period.

"Deactivation" means the blocking of a gig worker's access to the hiring entity's platform, changing a gig worker's status from eligible to provide delivery services or transportation services to ineligible, or other material restriction in access to the hiring entity's platform that is effected by a hiring entity.

"Director" means the Director of the Office of Labor Standards or the Director's designee.

"Director rules" means: (1) rules the Director or Agency may promulgate pursuant to subsection 100.060.B or 100.060.C; or (2) other rules that the Director identifies, by means of an Agency Q&A, previously promulgated pursuant to authority in Seattle Municipal Code Title 14. Rules the Director identifies by means of an Agency Q&A shall have the force and effect of law and may be relied on by hiring entities, gig workers, and other parties to determine their rights and responsibilities under this ordinance.

"Driver platform" means the driver-facing application dispatch system software or any online-enabled application service, website, or system, used by a TNC driver, that enables the prearrangement of passenger trips for compensation.

"Eating and drinking establishment" means "eating and drinking establishment" as defined in Seattle Municipal Code Section 23.84A.010.

"Food delivery network company" means an organization whether a corporation, partnership, sole proprietor, or other form, operating in Seattle, that offers prearranged delivery services for compensation using an online-enabled application or platform, such as an application dispatch system, to connect customers with workers for delivery from one or more of the following: (1) eating and drinking establishments, (2) food processing establishments, (3) grocery stores, or (4) any facility supplying groceries or prepared food and beverages for an online order. "Food delivery network company" includes any such entity or person acting directly or indirectly in the interest of a food delivery network company in relation to the food delivery network company worker.

"Food delivery network company worker" means a person affiliated with and accepting an offer of prearranged delivery services for compensation from a food delivery network company. For purposes of this ordinance, at any time that a food delivery network company worker is logged into the worker platform, the worker is considered a food delivery network company worker.

"Food processing" means "food processing" as defined in Seattle Municipal Code Section 23.84A.012.

"Front pay" means the compensation the gig worker would earn or would have earned if reinstated by the hiring entity.

"Gig worker" means a food delivery network company worker or a transportation network company driver.

"Grocery store" means "grocery store" as defined in Seattle Municipal Code Section 23.84A.014.

"Health-related reason" means a serious public health concern that could result in bodily injury or exposure to an infectious agent, biological toxin, or hazardous material. Health-related reason does not include inclement weather.

"Hiring entity" means a food delivery network company or a transportation network company.

"Hiring entity payment" means the amount owed to a gig worker by reason of working for the hiring entity, including but not limited to payment for providing services, bonuses, and commissions.

"Online order" means an order placed through an online-enabled application or platform, such as an application dispatch system, provided by a hiring entity for delivery services or transportation services in Seattle.

"Operating in Seattle" means, with respect to a hiring entity, offering prearranged delivery or transportation services for compensation using an online-enabled application or platform, such as an application dispatch system, to any affiliated gig worker, where such services take place in whole or part in Seattle.

"Paid sick time" means accrued days of paid leave provided by a hiring entity for use by a gig worker for any of the reasons authorized in subsection 100.030.A.1, for which time a gig worker shall be compensated

at the gig worker's average daily compensation.

1. For purposes of determining eligibility for "paid sick time," "family member" means a child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling.

a. "Child" means a biological child, adopted child, foster child, stepchild, or a child to whom a gig worker stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status.

b. "Parent" means a biological parent, adoptive parent, de facto parent, foster parent, stepparent, or legal guardian of a gig worker or the gig worker's spouse or registered domestic partner, or a person who stood in loco parentis when the gig worker was a minor child.

"Paid safe time" means accrued days of paid leave provided by a hiring entity for use by a gig worker for any of the reasons specified in subsection 100.030.A.2, for which time a gig worker shall be compensated at the gig worker's average daily compensation.

1. For purposes of determining eligibility for "paid safe time" under subsection 100.030.A.2.c, "family member" means a child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling.

a. "Child" means a biological child, adopted child, foster child, stepchild, or a child to whom a gig worker stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status.

b. "Parent" means a biological parent, adoptive parent, de facto parent, foster parent, stepparent, or legal guardian of a gig worker or the gig worker's spouse or registered domestic partner, or a person who stood in loco parentis when the gig worker was a minor child.

2. For purposes of determining eligibility for "paid safe time" under subsection 100.030.A.2.d:

a. "Family member" means, as defined in RCW 49.76.020 (wherever that section uses the term "employee," that term shall be substituted with "gig worker" as defined by Section 100.010), any

individual whose relationship to the gig worker can be classified as a child, spouse, parent, parent-in-law, grandparent, or person with whom the gig worker has a dating relationship.

b. "Household members" means, as "family or household members" are defined in RCW 26.50.010, spouses, domestic partners, former spouses, former domestic partners, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons 16 years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons 16 years of age or older with whom a person 16 years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

c. "Domestic violence" means:

1) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members;

2) Sexual assault of one family or household member by another; or

3) Stalking of one family or household member by another family or household member.

d. "Stalking" means stalking as defined in RCW 49.76.020.

e. "Dating relationship" means a social relationship of a romantic nature, as defined in RCW 49.76.020.

f. "Sexual assault" means sexual assault as defined in RCW 49.76.020.

"Rate of inflation" means 100 percent of the annual average growth rate of the bi-monthly Seattle-Tacoma-Bellevue Area Consumer Price Index for Urban Wage Earners and Clerical Workers, termed CPI-W, for the 12-month period ending in August, provided that the percentage increase shall not be less than zero.

"Respondent" means a hiring entity or any person who is alleged or found to have committed a

violation of this ordinance.

"Successor" means any person to whom a hiring entity quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys in bulk and not in the ordinary course of the hiring entity's business, a major part of the property, whether real or personal, tangible or intangible, of the hiring entity's business. For purposes of this definition, "person" means an individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, corporation, business trust, partnership, limited liability partnership, company, joint stock company, limited liability company, association, joint venture, or any other legal or commercial entity.

"Tips" means a verifiable sum to be presented by a customer as a gift or gratuity in recognition of some service performed for the customer by the gig worker receiving the tip.

"Transportation network company" or "TNC" means an organization whether a corporation, partnership, sole proprietor, or other form, licensed or required to be licensed under Seattle Municipal Code Chapter 6.310, operating in Seattle, that offers prearranged transportation services for compensation using an online-enabled application or platform, such as an application dispatch system, to connect passengers with drivers using a "transportation network company (TNC) endorsed vehicle," as defined in Seattle Municipal Code Chapter 6.310. "Transportation network company" includes any such entity or person acting directly or indirectly in the interest of a transportation network company in relation to the transportation network company driver.

"Transportation network company driver" or "TNC driver" means a licensed for-hire driver, as defined in Seattle Municipal Code Chapter 6.310, affiliated with and accepting trips from a licensed transportation network company. For purposes of this ordinance, at any time that a driver is logged into the driver platform, the driver is considered a TNC driver.

"Verification" means evidence that establishes or confirms that a gig worker's use of paid sick and paid safe time is for an authorized purpose under Section 100.030.

"Worker platform" means the worker-facing application dispatch system software or any online-enabled application service, website, or system, used by a food delivery network worker, that enables the prearrangement of delivery services for compensation.

"Work-related stop in Seattle" means a time spent by a gig worker on a commercial stop in Seattle that is related to the provision of delivery or transportation services associated with an online order, and does not include stopping for refueling, stopping for a personal meal or errands, or time spent in Seattle solely for the purpose of travelling through Seattle from a point of origin outside Seattle to a destination outside Seattle with no commercial stops in Seattle.

"Written" or "writing" means a printed or printable communication in physical or electronic format, including but not limited to a communication that is transmitted through email, text message, or a computer or mobile system, or that is otherwise sent and maintained electronically.

100.015 Gig worker coverage

For the purposes of this ordinance:

A. Covered gig workers are limited to those who perform work for a covered hiring entity, where the work is performed in whole or part in Seattle.

B. Work performed "in Seattle" means work that includes a work-related stop in Seattle.

100.020 Hiring entity coverage

A. For the purposes of this ordinance, covered hiring entities are limited to those who hire 250 or more gig workers worldwide.

B. To determine the number of gig workers hired for the current calendar year:

1. The calculation is based upon the average number per calendar week of gig workers who worked for compensation during the preceding calendar year for any and all weeks during which at least one gig worker worked for compensation. For hiring entities that did not have any gig workers during the preceding calendar year, the number of gig workers hired for the current calendar year is calculated based upon the

average number per calendar week of gig workers who worked for compensation during the first 90 calendar days of the current year in which the hiring entity engaged in business.

2. All gig workers who worked for compensation shall be counted, including but not limited to:

a. Gig workers who are not covered by this ordinance;

b. Gig workers who worked in Seattle; and

c. Gig workers who worked outside Seattle.

C. Separate entities that form an integrated enterprise shall be considered a single hiring entity under this ordinance. Separate entities will be considered an integrated enterprise and a single hiring entity under this ordinance where a separate entity controls the operation of another entity. The factors to consider in making this assessment include, but are not limited to:

1. Degree of interrelation between the operations of multiple entities;

2. Degree to which the entities share common management;

3. Centralized control of labor relations; and

4. Degree of common ownership or financial control over the entities.

100.025 Accrual of paid sick and paid safe time

A. Gig workers are entitled to accrue paid sick and paid safe time until 180 days after the termination of the civil emergency proclaimed by the Mayor on March 3, 2020 or the termination of any concurrent civil emergency proclaimed by a public official in response to the COVID-19 public health emergency and applicable to the City, whichever is latest.

B. Gig workers who commenced work for the hiring entity before the effective date of this ordinance shall accrue paid sick and paid safe time according to the hiring entity's choice of one of the accrual methods in subsections 100.025.B.1 or 100.025.B.2. When compensating gig workers for the paid sick and paid safe time required by subsections 100.025.B.1 or 100.025.B.2, hiring entities may subtract the amount of compensation provided to a gig worker for other paid leave used for a paid sick and paid safe time purpose

between October 1, 2019 and the effective date of this ordinance and shall itemize any subtractions in an accompanying compensation statement.

1. Gig workers shall begin accruing paid sick and paid safe time on October 1, 2019 or upon commencement of work, whichever is later, and shall accrue at least one day of paid sick and paid safe time for every 30 days worked; or

2. Gig workers shall accrue at least five days of paid sick and paid safe time as of the effective date of this ordinance and subsequently shall accrue at least one day of paid sick and paid safe time for every 30 days worked after the effective date of this ordinance.

3. Hiring entities shall select the same accrual method for all gig workers covered by this ordinance. Hiring entities must file information on their chosen accrual method, pursuant to this Section 100.025.B, with the Office of Labor Standards. The information must also include the registered legal name and trade name of the hiring entity as listed on the hiring entity's Seattle business license tax certificate. This information shall be filed with the Office of Labor Standards in a written format within 14 calendar days after the effective date of this ordinance.

C. Gig workers who commence work for the hiring entity on or after the effective date of this ordinance shall begin accruing paid sick and safe time upon commencement of work and shall accrue at least one day of paid sick and paid safe time for every 30 days worked on or after the effective date of this ordinance.

1. Hiring entities may, but are not required to, frontload paid sick and paid safe time to a gig worker in advance of the accrual required by subsection 100.025.C.

a. Frontloaded paid sick and paid safe time shall meet requirements for accrual, use, and carry over, and shall otherwise comply with the provisions of this ordinance.

b. Hiring entities shall correct any discrepancies, between the frontloaded paid sick and paid safe time and the amount of paid sick and paid safe time required by subsection 100.025.C, as soon as practicable and no later than 30 days after the hiring entity identifies the discrepancy or after a gig worker

provides notice to the hiring entity of the discrepancy.

c. Hiring entities shall not request or require reimbursement from a gig worker who uses frontloaded paid sick and paid safe time that exceeds the amount of paid sick and paid safe time the gig worker would have accrued absent frontloading.

D. Hiring entities shall allow gig workers to carry over at least nine days of accrued, unused paid sick and paid safe time to the following year.

1. For the purposes of this subsection 100.025.D, "year" means calendar year, fiscal year, service year, or any other fixed consecutive 12-month period established by the hiring entity, and used in the ordinary course of the hiring entity's business for the purpose of calculating compensation to gig workers.

2. Unless otherwise established by the hiring entity in the written policy and procedure required by subsection 100.045.B, "year" is defined as calendar year.

3. If the hiring entity transitions from one type of year to another for the purpose of carrying-over accrued, unused paid sick and paid safe time, the hiring entity shall ensure that the transition process maintains the accrual, use, carry-over, and other requirements of this ordinance.

4. If a worker carries over unused paid sick and paid safe time to the following year, accrual of paid sick and paid safe time in the subsequent year shall be in addition to the hours accrued in the previous year and carried over.

5. Hiring entities may allow for a more generous carry over of accrued, unused paid sick and paid safe time to the following year.

E. If a hiring entity quits, sells out, exchanges, or disposes the hiring entity's business, or the hiring entity's business is otherwise acquired by a successor, a gig worker shall retain all accrued, unused paid sick and paid safe time and is entitled to use such paid sick and paid safe time as provided in this ordinance as a gig worker for the successor hiring entity.

100.030 Use of paid sick time and paid safe time

A. A gig worker is entitled to use paid sick and paid safe time for an authorized purpose, as described in this Section 100.030, until 180 days after the termination of the civil emergency proclaimed by the Mayor on March 3, 2020 or the termination of any concurrent civil emergency proclaimed by a public official in response to the COVID-19 public health emergency and applicable to the City, whichever is latest.

1. A gig worker is authorized to use paid sick time for the following reasons:

a. For a personal mental or physical illness, injury, or health condition; to accommodate the gig worker's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or a gig worker's need for preventive medical care; and

b. For care of a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care of a family member who needs preventive medical care.

2. A gig worker is authorized to use paid safe time for the following reasons:

a. When the hiring entity has suspended or otherwise discontinued operations by order of a public official, for any health-related reason, to limit exposure to an infectious agent, biological toxin, or hazardous material;

b. When the hiring entity has reduced, suspended, or otherwise discontinued operations for any health- or safety-related reason;

c. When the gig worker's family member's school or place of care has been closed; and

d. For any of the following reasons related to domestic violence, sexual assault, or stalking, as set out in RCW 49.76.030. For the purposes of this ordinance, wherever RCW 49.76.030 uses the term "employee," that term shall be substituted with "gig worker" as defined by Section 100.010.

1) To enable the gig worker to seek legal or law enforcement assistance or remedies to ensure the health and safety of the gig worker or the gig worker's family or household members, including but not limited to, preparing for, or participating in, any civil or criminal legal proceeding related to

or derived from domestic violence, sexual assault, or stalking;

2) To enable the gig worker to seek treatment by a health care provider for physical or mental injuries caused by domestic violence, sexual assault, or stalking, or to attend to health care treatment for a victim who is the gig worker's family or household member;

3) To enable the gig worker to obtain, or assist a family or household member in obtaining, services from a domestic violence shelter, rape crisis center, or other social services program for relief from domestic violence, sexual assault, or stalking;

4) To enable the gig worker to obtain, or assist a family or household member in obtaining, mental health counseling related to an incident of domestic violence, sexual assault, or stalking, in which the gig worker or the gig worker's family or household member was a victim of domestic violence, sexual assault, or stalking; or

5) To enable the gig worker to participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the gig worker or gig worker's family or household members from future domestic violence, sexual assault, or stalking.

B. A gig worker is entitled to use accrued paid sick and paid safe time if the gig worker has performed work for the hiring entity, where the work was performed in whole or part in Seattle, within 90 calendar days preceding the gig worker's request to use paid sick and paid safe time. A gig worker is entitled to use paid sick and paid safe time during a deactivation or other status that prevents work for the hiring entity, unless such status is due to a verified allegation of sexual assault perpetrated by the gig worker.

C. Hiring entities shall establish an accessible system for gig workers to request and use paid sick and paid safe time. Such system shall be available to the gig worker via smartphone application or online web portal.

D. A gig worker is entitled to request one or more accrued days of paid sick and paid safe time for immediate use, including consecutive days of use. Hiring entities shall compensate the gig worker for the

requested day(s) of paid sick time and paid safe time no later than 14 calendar days or the next regularly scheduled date of compensation following the requested day(s) of paid sick and paid safe time. Hiring entities shall not request or require reasonable verification except as provided under subsection 100.030.G or 100.030.H. If verification is required by the hiring entity, the gig worker must be compensated for the requested day(s) of paid sick and paid safe time no later than the gig worker's next regularly scheduled date of compensation after the verification is provided.

E. Hiring entities shall make accrued days of paid sick and paid safe time available for use no more than one week after the date of accrual.

F. Accrued days of paid sick and paid safe time shall be used in increments of 24 hours.

1. Hiring entities shall provide the gig worker with notice, via smartphone application, online web portal or personal log-in, of the duration of their 24-hour increment for use of the paid sick and paid safe time.

2. If a gig worker accepts an offer of prearranged services for compensation from a hiring entity during the 24-hour period(s) for which the gig worker requested day(s) of paid sick and paid safe time, a hiring entity may determine that the gig worker did not use paid sick and paid safe time for an authorized purpose and may follow procedures under subsection 100.030.J to withhold compensation for the requested day(s) of paid sick and paid safe time.

G. When a gig worker uses more than three consecutive days of paid sick and paid safe time, hiring entities may require reasonable verification that the gig worker used paid sick time and paid safe time for an authorized purpose covered by subsection 100.030.A.1 or 100.030.A.2.

1. A hiring entity shall provide the gig worker with a reasonable time period to provide verification; a "reasonable time period" shall be defined by a hiring entity's written policy and procedure required by subsection 100.045.B and shall not be less than ten calendar days following the first day of the gig

worker's use of paid sick and paid safe time.

2. A hiring entity's requirements for verification shall not result in an unreasonable burden or expense on the gig worker and shall not intrude upon the gig worker's privacy.

a. When requiring verification, a hiring entity shall notify the gig worker of the right to provide an oral or written explanation asserting that the gig worker used paid sick and paid safe time for an authorized purpose and describing how the hiring entity's verification requirement would create an unreasonable burden or expense.

b. If the gig worker provides an explanation, a hiring entity shall respond within ten calendar days and shall provide alternatives for the gig worker to meet the verification requirement in a manner that does not result in an unreasonable burden or expense on the gig worker. Examples of such alternatives include: (i) a hiring entity's acceptance of a gig worker's oral or written statement that the gig worker used paid sick time for an authorized purpose; (ii) a hiring entity's acceptance of documentation from a different source than identified in the initial verification requirement, such as documentation from a service provider indicating that the gig worker used paid sick time or paid safe time for an authorized purpose; or (iii) a hiring entity's payment for at least half the cost of the gig worker's out-of-pocket expenses to obtain the verification.

H. For reasonable verification of paid sick time:

1. A hiring entity may require documentation signed by a health care provider indicating that the gig worker's use of paid sick time was necessary; a hiring entity shall not request or require that the documentation explain the nature of the illness, injury, health condition, or preventive care.

2. A hiring entity shall not require verification from a health care provider during a civil emergency proclaimed by a public official in response to COVID-19; it shall automatically be considered an unreasonable burden for hiring entities to require verification from a health care provider when a public official has proclaimed a civil emergency in response to COVID-19.

I. For reasonable verification of paid safe time:

1. A hiring entity may require that requests under subsections 100.030.A.2.a through 100.030.A.2.c be supported by verification of a notice of reduced operations or closure and the gig worker may satisfy this verification request by providing the notice, or a copy of the notice, in whatever format the gig worker received it.

2. A hiring entity may require that requests under subsection 100.030.A.2.d be supported by verification that the gig worker or gig worker's family or household member is a victim of domestic violence, sexual assault, or stalking, and that the leave taken was for one of the purposes covered by subsection 100.030.A.2.d. A gig worker may satisfy this verification requirement by one or more of the following methods:

a. A gig worker's written statement that the gig worker or the gig worker's family or household member is a victim of domestic violence, sexual assault, or stalking and that the leave taken was for one of the purposes of subsection 100.030.A.2.d;

b. A police report indicating that the gig worker or gig worker's family or household member was a victim of domestic violence, sexual assault, or stalking;

c. A court order protecting or separating the gig worker or gig worker's family or household member from the perpetrator of the act of domestic violence, sexual assault, or stalking, or other evidence from the court or the prosecuting attorney that the gig worker or gig worker's family or household member appeared, or is scheduled to appear, in court in connection with an incident of domestic violence, sexual assault, or stalking; or

d. Documentation that the gig worker or gig worker's family or household member is a victim of domestic violence, sexual assault, or stalking, from any of the following persons from whom the gig worker or gig worker's family or household member sought assistance in addressing the domestic violence, sexual assault, or stalking: an advocate for victims of domestic violence, sexual assault, or stalking; an attorney; a member of the clergy; or a medical or other professional. The provision of documentation under this Section

100.030 does not waive or diminish the confidential or privileged nature of communications between a victim of domestic violence, sexual assault, or stalking with one or more of the individuals named in this subsection 100.030.I.2.d.

e. Any verification requirements for use of paid safe time under subsection 100.030.A.2.d shall comply with the provisions outlined in WAC 296-135-070 <https://app.leg.wa.gov/wac/default.aspx?cite=296-135-070>. For the purposes of this ordinance, wherever WAC 296-135-070 uses the terms "employee" and "employer," those terms shall be substituted with "gig worker" and "hiring entity" respectively, as defined by Section 100.010.

J. If a hiring entity can demonstrate that the gig worker did not use paid sick and paid safe time for an authorized purpose covered by subsection 100.030.A.1 or 100.030.A.2, the hiring entity may withhold compensation for the days paid sick and paid safe time, subject to the following conditions:

1. The hiring entity shall provide the gig worker with written notification, in a format that is readily accessible to the gig worker, of the hiring entity's decision to withhold compensation and shall provide a method of contact and accessible procedure for the gig worker to contest the withholding of compensation and to assert that the gig worker's use of paid sick and paid safe time was for an authorized purpose.

2. The hiring entity shall not subsequently restrict the gig worker's future use of such paid sick and safe time or deduct it from the gig worker's days of paid sick and paid safe time available for use.

3. The hiring entity shall not take adverse action against the gig worker, other than withholding compensation the applicable days of paid sick and paid safe time.

K. Hiring entities may not request or require, as a condition of a gig worker taking paid sick and paid safe time, that the gig worker search for or find a replacement gig worker to cover the day(s) during which the gig worker uses paid sick and paid safe time.

L. Nothing in this ordinance shall be construed to prohibit a hiring entity from establishing a policy whereby gig workers may donate unused accrued paid sick and paid safe time to another gig worker.

M. Hiring entities shall provide each gig worker with written notification of the current rate of average daily compensation for use of paid sick and paid safe time; and an updated amount of accrued paid sick and paid safe time since the last notification, reduced paid sick and paid safe time since the last notification, any

unused paid sick and paid safe time available for use, and any amount that the hiring entity may subtract from a gig worker's compensation for paid sick and paid safe time pursuant to subsection 100.025.B.

a. Hiring entities shall provide this notification no less than monthly.

b. Hiring entities may choose a reasonable system for providing this notification, including but not limited to, a pay stub, a weekly summary of compensation information, or an online system where gig workers can access their own paid sick and paid safe time information.

c. Hiring entities are not required to provide this notification to a gig worker if the gig worker has not worked any days since the last notification.

100.035 Confidentiality and nondisclosure

A. Except as provided in subsection 100.035.B, a hiring entity shall maintain the confidentiality of information provided by the gig worker or others in support of a gig worker's request for paid sick and paid safe time under this Section 100.035, including but not limited to health information of the gig worker or the gig worker's family member, the fact that the gig worker or gig worker's family member is a victim of domestic violence, sexual assault, or stalking, the fact that the gig worker requested or obtained paid sick and paid safe time under this ordinance, and any written or oral statement, documentation, record, or corroborating evidence provided by the gig worker.

B. Information given by a gig worker may be disclosed by hiring entities only if it is:

1. Requested or consented to by the gig worker;

2. Ordered by a court or administrative agency; or

3. Otherwise required by applicable federal or state law.

100.040 Separation from work

A. If a gig worker separates from work due to inactivity, deactivation, or other reason, and commences working within 12 months of separation by the same hiring entity:

1. Previous work shall be counted for purposes of determining the gig worker's eligibility to use

accrued paid sick time and safe time under subsection 100.030.D, except that if separation does occur, the total time of work used to determine eligibility shall occur within three years.

2. Previously accrued, unused paid sick and paid safe time shall be retained by the gig worker and the gig worker is entitled to use such paid sick and paid safe time, depending upon eligibility under subsection 100.030.D.

B. If a gig worker separates from work and commences work after 12 months of separation by the same hiring entity, the gig worker is not entitled to retain previously accrued paid sick and paid safe time and for the purposes of this ordinance the gig worker shall be considered to have newly commenced work.

100.045 Notice of rights

A. Hiring entities shall provide each gig worker eligible to accrue paid sick and paid safe time with a written notice of rights established by this ordinance. The Agency may create and distribute a model notice of rights in English and other languages. However, hiring entities are responsible for providing gig workers with the notice of rights required by this subsection 100.045.A, in a form and manner sufficient to inform gig workers of their rights under this ordinance, regardless of whether the Agency has created and distributed a model notice of rights. The notice of rights shall provide information on:

1. The right to paid sick and paid safe time guaranteed by this ordinance;

2. The amount of paid sick and paid safe time accrual and the terms of its use guaranteed under this ordinance;

3. The right to be protected from retaliation for exercising in good faith the rights protected by this ordinance; and

4. The right to file a complaint with the Agency or bring a civil action for violation of the requirements of this ordinance, including a hiring entity’s denial of paid sick time and paid safe time as required by this ordinance, and a hiring entity or other person's retaliation against a gig worker or other person for requesting or taking paid sick and paid safe time or otherwise engaging in an activity protected by this

ordinance.

B. Hiring entities shall provide each gig worker with written notice of the hiring entity's policy and procedure meeting the requirements of this ordinance.

1. The policy and procedure shall provide information on:

a. The gig worker's right to paid sick and paid safe time under this ordinance;

b. Whether the hiring entity is using a year other than the calendar year for carry-over of accrued, unused paid sick and paid safe time;

c. The authorized purposes under which paid sick and paid safe time may be used;

d. The manner of providing gig workers with written notification of the current rate of average daily compensation for use of paid sick and paid safe time, and an updated amount of accrued, reduced, and available paid sick and paid safe time; e. Prohibitions against retaliation for use of paid sick and paid safe time;

f. If applicable, explanation of:

1) Verification required by the hiring entity for use of paid sick and paid safe time for more than three consecutive days;

2) Shared paid sick and paid safe time program in which a gig worker may choose to donate paid sick and paid safe time to a co-worker;

3) Policy related to frontloaded paid sick and paid safe time; and

4) The manner by which the hiring entity will subtract the amount of compensation provided to a gig worker for other paid leave used for a paid sick and paid safe time purpose between October 1, 2019 and the effective date of this ordinance, pursuant to 100.025.B.

g. Other information that is material and necessary to effectuate the terms of this ordinance, pursuant to Director rules.

C. Hiring entities shall provide the notice of rights required by subsection 100.045.A and the policy and

procedure required by subsection 100.045.B in an electronic format that is readily accessible to the gig worker. The notices shall be made available to the gig worker via smartphone application or online web portal, in English and any language that the hiring entity knows or has reason to know is the primary language of the gig worker(s).

100.050 Hiring entity records

A. Hiring entities shall retain records that document compliance with this ordinance for each gig worker including:

1. Date of commencement of work;

2. Days worked in whole or part in Seattle;

3. Compensation for days worked in whole or part in Seattle;

4. Rates of average daily compensation as calculated every calendar month;

5. Paid sick and paid safe time accrued, and any unused paid sick and paid safe time available for use;

6. Paid sick and paid safe time reductions, including but not limited, to paid sick and paid safe time used, paid sick and paid safe time donated to a co-worker through a shared leave program, or paid sick and paid safe time not carried over to the following year; and

7. Other records that are material and necessary to effectuate the terms of this ordinance, pursuant to Director rules.

B. Hiring entities shall retain the records required by subsection 100.050.A for three years from the date of days worked or the date of use of paid sick and paid safe time.

C. If a hiring entity fails to retain adequate records required under subsection 100.050.A, there shall be a presumption, rebuttable by clear and convincing evidence, that the hiring entity violated this ordinance for the periods and for each gig worker for whom records were not retained.

D. Records and documents relating to verification of paid sick time for the gig worker or the gig

worker's family members, created for purposes of this ordinance, shall be kept as confidential medical records in separate files/records from the hiring entity's gig worker files.

100.055 Retaliation prohibited

A. No hiring entity or any other person shall interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this ordinance. A hiring entity may not adopt or enforce any policy that counts the use of paid sick and paid safe time as an event that may lead to or result in discipline or other adverse action against the gig worker.

B. No hiring entity or any other person shall take any adverse action against any person because the person has exercised in good faith the rights protected under this ordinance. Such rights include but are not limited to the right to use paid sick time and/or paid safe time pursuant to this ordinance; the right to make inquiries about the rights protected under this ordinance; the right to inform others about their rights under this ordinance; the right to inform the person's hiring entity, the person's legal counsel, a union or similar organization, or any other person about an alleged violation of this ordinance; the right to file an oral or written complaint with the Agency or bring a civil action for an alleged violation of this ordinance; the right to cooperate with the Agency in its investigations of this ordinance; the right to testify in a proceeding under or related to this ordinance; the right to refuse to participate in an activity that would result in a violation of city, state or federal law; and the right to oppose any policy, practice, or act that is unlawful under this ordinance.

C. No hiring entity or any other person shall communicate to a person exercising rights protected in this Section 100.055, directly or indirectly, the willingness to inform a government worker that the person is not lawfully in the United States, or to report, or to make an implied or express assertion of a willingness to report, suspected citizenship or immigration status of a gig worker or family member of the gig worker to a federal, state, or local agency because the gig worker has exercised a right under this ordinance.

D. It shall be a rebuttable presumption of retaliation if a hiring entity or any other person takes an adverse action against a person within 90 days of the person's exercise of rights protected in this Section

100.055. However, in the case of seasonal work that ended before the close of the 90-day period, the presumption also applies if the hiring entity fails to rehire a former gig worker at the next opportunity for work in the same position. The hiring entity may rebut the presumption with clear and convincing evidence that the adverse action was taken for a permissible purpose.

E. Proof of retaliation under this Section 100.055 shall be sufficient upon a showing that a hiring entity or any other person has taken an adverse action against a person and the person's exercise of rights protected in this Section 100.055 was a motivating factor in the adverse action, unless the hiring entity can prove that the action would have been taken in the absence of such protected activity.

F. The protections afforded under this Section 100.055 shall apply to any person who mistakenly but in good faith alleges violations of this ordinance.

G. A complaint or other communication by any person triggers the protections of this Section 100.055 regardless of whether the complaint or communication is in writing or makes explicit reference to this ordinance.

100.060 Enforcement power and duties

A. The Agency shall have the power to investigate violations of this ordinance and shall have such powers and duties in the performance of these functions as are defined in this ordinance and otherwise necessary and proper in the performance of the same and provided for by law.

B. The Agency is authorized to coordinate implementation and enforcement of this ordinance and may promulgate appropriate guidelines or rules for such purposes.

C. The Director is authorized to promulgate rules consistent with this ordinance and Chapter 3.02 of the Seattle Municipal Code. Any guidelines or rules promulgated by the Director shall have the force and effect of law and may be relied on by hiring entities, gig workers, and other parties to determine their rights and responsibilities under this ordinance.

100.065 Violation

The failure of any respondent to comply with any requirement imposed on the respondent under this ordinance is a violation.

100.070 Investigation

A. The Agency shall have the power to investigate any violations of this ordinance by any respondent. The Agency may initiate an investigation pursuant to Director rules, including but not limited to situations when the Director has reason to believe that a violation has occurred or will occur, or when circumstances show that violations are likely to occur within a class of hiring entities or businesses because the workforce contains significant numbers of gig workers who are vulnerable to violations of this ordinance or the workforce is unlikely to volunteer information regarding such violations. An investigation may also be initiated through the receipt by the Agency of a report or complaint filed by a gig worker or other person.

B. A gig worker or other person may report to the Agency any suspected violation of this ordinance. The Agency shall encourage reporting pursuant to this Section 100.070 by taking the following measures:

1. The Agency shall keep confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the gig worker or person reporting the violation. However, with the authorization of such person, the Agency may disclose the gig worker's or person's name and identifying information as necessary to enforce this ordinance or for other appropriate purposes.

2. Hiring entities shall provide gig workers with written notice of an investigation. Hiring entities shall provide the notice to gig workers in a format that is readily accessible via smartphone application or online web portal. The Agency shall create the notice in English and other languages.

3. The Agency may certify the eligibility of eligible persons for "U" Visas under the provisions of 8 U.S.C. § 1184.p and 8 U.S.C. § 1101.a.15.U. This certification is subject to applicable federal law and regulations, and Director Rules.

C. The Agency's investigation shall commence within three years of the alleged violation. To the extent permitted by law, the applicable statute of limitations for civil actions is tolled during any investigation under

this ordinance and any administrative enforcement proceeding under this ordinance based upon the same facts. For purposes of this ordinance:

1. The Agency's investigation begins on the earlier date of when the Agency receives a complaint from a person under this ordinance, or when the Agency provides notice to the respondent that an investigation has commenced under this ordinance.

2. The Agency's investigation ends when the Agency issues a final order concluding the matter and any appeals have been exhausted; the time to file any appeal has expired; or the Agency notifies the respondent in writing that the investigation has been otherwise resolved.

D. The Agency's investigation shall be conducted in an objective and impartial manner.

E. The Director may apply by affidavit or declaration in the form allowed under RCW 9A.72.085 to the Hearing Examiner for the issuance of subpoenas requiring a hiring entity to produce the records required by Section 100.050, or for the attendance and testimony of witnesses, or for the production of documents required to be retained under Section 100.050, or any other document relevant to the issue of whether any gig worker or group of gig workers has been or is afforded proper amounts of paid sick and paid safe time under this ordinance and/or to whether a hiring entity has violated any provision of this ordinance. The Hearing Examiner shall conduct the review without hearing as soon as practicable and shall issue subpoenas upon a showing that there is reason to believe that: a violation has occurred, a complaint has been filed with the Agency, or that circumstances show that violations are likely to occur within a class of businesses because the workforce contains significant numbers of gig workers who are vulnerable to violations of this ordinance or the workforce is unlikely to volunteer information regarding such violations.

F. A hiring entity that fails to comply with the terms of any subpoena issued under subsection 100.070.E in an investigation by the Agency under this ordinance before the issuance of a Director's Order issued pursuant to subsection 100.075.C may not use such records in any appeal to challenge the correctness of any determination by the Agency of liability, damages owed, or penalties assessed.

G. In addition to other remedies, the Director may refer any subpoena issued under subsection 100.070.E to the City Attorney to seek a court order to enforce any subpoena.

H. Where the Director has reason to believe that a violation has occurred, the Director may order any appropriate temporary or interim relief to mitigate the violation or maintain the status quo pending completion of a full investigation or hearing, including but not limited to a deposit of funds or bond sufficient to satisfy a good-faith estimate of compensation, interest, damages, and penalties due. A respondent may appeal any such order in accordance with Section 100.085.

100.075 Findings of fact and determination

A. Except when there is an agreed upon settlement, the Director shall issue a written determination with findings of fact resulting from the investigation and statement of whether a violation of this ordinance has or has not occurred based on a preponderance of the evidence before the Director.

B. If the Director determines that there is no violation of this ordinance, the Director shall issue a "Determination of No Violation" with notice of a gig worker or other person's right to appeal the decision, pursuant to Director rules.

C. If the Director determines that a violation of this ordinance has occurred, the Director shall issue a "Director's Order" that shall include a notice of violation identifying the violation or violations.

1. The Director's Order shall state with specificity the amounts due under this ordinance for each violation, including payment of unpaid compensation, liquidated damages, civil penalties, penalties payable to aggrieved parties, fines, and interest pursuant to Section 100.080.

2. The Director's Order may specify that civil penalties and fines due to the Agency can be mitigated for respondent's timely payment of remedy due to an aggrieved party pursuant to subsection 100.080.A.4.

3. The Director's Order may specify that civil penalties and fines are due to the aggrieved party rather than due to the Agency pursuant to 100.080.D or 100.080.E.

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

5. The Director's Order shall include notice of the respondent's right to appeal the decision pursuant to Section 100.085.

100.080 Remedies

A. The payment of unpaid compensation, liquidated damages, civil penalties, penalties payable to aggrieved parties, fines, and interest provided under this ordinance is cumulative and is not intended to be exclusive of any other available remedies, penalties, fines, and procedures.

1. The amounts of all civil penalties, penalties payable to aggrieved parties, and fines contained in this Section 100.080 shall be increased annually to reflect the rate of inflation and calculated to the nearest cent on January 1 of each year thereafter. The Agency shall determine the amounts and file a schedule of such amounts with the City Clerk.

2. If a violation is ongoing when the Agency receives a complaint or opens an investigation, the Director may order payment of unpaid compensation plus interest that accrues after receipt of the complaint or after the investigation opens and before the date of the Director’s Order.

3. Interest shall accrue from the date the unpaid compensation was first due at 12 percent annum, or the maximum rate permitted under RCW 19.52.020.

4. If there is a remedy due to an aggrieved party, the Director may waive part or all of the amount of civil penalties and fines due to the Agency based on timely payment of the full remedy due to the aggrieved party.

a. The Director may waive the total amount of civil penalties and fines due to the Agency if the Director determines that the respondent paid the full remedy due to the aggrieved party within ten days of service of the Director’s Order.

b. The Director may waive half the amount of civil penalties and fines due to the Agency if the Director determines that the respondent paid the full remedy due to the aggrieved party within 15 days of service of the Director's Order.

c. The Director shall not waive any amount of civil penalties and fines due to the Agency if the Director determines that the respondent has not paid the full remedy due to the aggrieved party after 15 days of service of the Director's Order.

5. When determining the amount of liquidated damages, civil penalties, penalties payable to aggrieved parties, and fines due under this Section 100.080 for a settlement agreement or Director's Order, including but not limited to the mitigation of civil penalties and fines due to the Agency for timely payment of remedy due to an aggrieved party under subsection 100.080.A.4, the Director shall consider:

a. The total amount of unpaid compensation, liquidated damages, penalties, fines, and interest due;

b. The nature and persistence of the violations;

c. The extent of the respondent's culpability;

d. The substantive or technical nature of the violations;

e. The size, revenue, and human resources capacity of the respondent;

f. The circumstances of each situation;

g. The amount of penalties in similar situations; and

h. Other factors pursuant to Director rules.

B. A respondent found to be in violation of this ordinance shall be liable for full payment of unpaid compensation due plus interest in favor of the aggrieved party under the terms of this ordinance and other equitable relief. 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 designate a daily amount

for unpaid compensation in a minimum amount of $150 per accrued day of paid sick and paid safe time owed to the aggrieved party, where a minimum amount of $150 may be assessed in place of the average daily compensation owed for each day. For any violation of this ordinance, the Director may assess liquidated damages in an additional amount of up to twice the unpaid compensation.

C. A respondent found to be in violation of this ordinance for retaliation under Section 100.055 shall be subject to any appropriate relief at law or equity including, but not limited to reinstatement of the aggrieved party, front pay in lieu of reinstatement with full payment of unpaid compensation plus interest in favor of the aggrieved party under the terms of this ordinance, and liquidated damages in an additional amount of up to twice the unpaid compensation. The Director also shall order the imposition of a penalty payable to the aggrieved party of up to $5,462.70.

D. The Director is authorized to assess penalties and shall specify that at least 50 percent of any penalty assessed pursuant to this subsection 100.080.D is payable to the aggrieved party and the remaining penalty is payable to the Agency as a civil penalty. The Director may also specify that the entire penalty is payable to the aggrieved party.

1. For a first violation of this ordinance, the Director may assess a penalty of up to $546.07 per aggrieved party.

2. For a second violation of this ordinance, the Director shall assess a penalty of up to $1,092.13 per aggrieved party, or an amount equal to ten percent of the total amount of unpaid compensation, whichever is greater.

3. For a third or any subsequent violation of this ordinance, the Director shall assess a penalty of up to $5,462.70 per aggrieved party, or an amount equal to ten percent of the total amount of unpaid compensation, whichever is greater.

4. The maximum penalty for a violation of this ordinance shall be $21,849.79 per aggrieved party, or an amount equal to ten percent of the total amount of unpaid compensation, whichever is greater.

5. For purposes of this Section 100.080, a violation is a second, third, or subsequent violation if the respondent has been a party to one, two, or more than two settlement agreements, respectively, stipulating that a violation has occurred; and/or one, two, or more than two Director's Orders, respectively, have issued against the respondent in the ten years preceding the date of the violation; otherwise, it is a first violation.

E. The Director is authorized to assess fines and may specify that the fines are due to the aggrieved party rather than due to the Agency. The Director may assess fines as follows

Violation	**Fine**
Failure to establish an accessible system for a gig worker to request and use paid sick and paid safe time under subsection 100.030.C	$546.07 per aggrieved party
Failure to provide notification of the current rate of average daily compensation and an updated amount of paid time available for use as paid sick and paid safe time under subsection 100.030.M	$546.07 per aggrieved party
Failure to provide gig workers with written notice of rights under subsection 100.045.A	$546.07 per aggrieved party
Failure to provide gig workers with the hiring entity's written policy and procedure for meeting paid sick and paid safe time requirements under subsection 100.045.B	$546.07 per aggrieved party
Failure to retain hiring entity records for three years under subsections 100.050.A and 100.050.B	$546.07 per missing record
Failure to comply with prohibitions against retaliation for exercising rights protected under Section 100.055	$1,092.13 per aggrieved party
Failure to provide notice of investigation to gig workers under subsection 100.070.B.2	$546.07
Failure to post or distribute public notice of failure to comply with final order under subsection 100.100.A.1	$546.07

The maximum amount that may be imposed in fines in a one-year period for each type of violation listed above is $5,462.70 unless a fine for retaliation is issued, in which case the maximum amount is $21,849.79.

F. A respondent who willfully hinders, prevents, impedes, or interferes with the Director or Hearing Examiner in the performance of their duties under this ordinance shall be subject to a civil penalty of not less than $1,092.13 and not more than $5,462.70.

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 ordinance,

including but not limited to reasonable attorneys' fees.

H. A hiring entity that is the subject of a settlement agreement stipulating that a violation has occurred shall count for debarment, or a final order for which all appeal rights have been exhausted, shall not be permitted to bid, or have a bid considered, on any City contract until such amounts due under the final order have been paid in full to the Director. If the hiring entity is the subject of a final order two times or more within a five-year period, the hiring entity shall not be allowed to bid on any City contract for two years. This subsection 100.080.H shall be construed to provide grounds for debarment separate from, and in addition to, those contained in Seattle Municipal Code Chapter 20.70 and shall not be governed by that chapter provided that nothing in this subsection 100.080.H shall be construed to limit the application of Seattle Municipal Code Chapter 20.70. The Director shall notify the Director of Finance and Administrative Services of all hiring entities subject to debarment under this subsection 100.080.H.

100.085 Appeal period and failure to respond

A. A gig worker or other person who claims an injury as a result of an alleged violation of this ordinance may appeal the Determination of No Violation, pursuant to Director rules.

B. A respondent may appeal the Director's Order, including all remedies issued pursuant to Section 100.080, by requesting a contested hearing before the Hearing Examiner in writing within 15 days of service of the Director's Order. If a respondent fails to appeal the Director's Order within 15 days of service, the Director's Order shall be final. If the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the appeal period shall run until 5 p.m. on the next business day.

100.090 Appeal procedure and failure to appear

A. Contested hearings shall be conducted pursuant to the procedures for hearing contested cases contained in Section 3.02.090 of the Seattle Municipal Code and the rules adopted by the Hearing Examiner for hearing contested cases. The hearing shall be conducted de novo and the Director shall have the burden of proving by a preponderance of the evidence that the violation or violations occurred. Upon establishing such

proof, the remedies and penalties imposed by the Director shall be upheld unless it is shown that the Director abused discretion. Failure to appear for a contested hearing shall result in an order being entered finding that the respondent committed the violation stated in the Director's Order. For good cause shown and upon terms the Hearing Examiner deems just, the Hearing Examiner may set aside an order entered upon a failure to appear.

B. In all contested cases, the Hearing Examiner shall enter an order affirming, modifying or reversing the Director's Order, consistent with Ordinance 126068.

100.095 Appeal from Hearing Examiner order

A. The respondent may obtain judicial review of the decision of the Hearing Examiner by applying for a Writ of Review in the King County Superior Court within 30 days from the date of the decision in accordance with the procedure set forth in chapter 7.16 RCW, other applicable law, and court rules.

B. The decision of the Hearing Examiner shall be final and conclusive unless review is sought in compliance with this Section 100.095.

100.100 Failure to comply with final order

A. If a respondent fails to comply within 30 days of service of any settlement agreement with the Agency, or with any final order issued by the Director or the Hearing Examiner for which all appeal rights have been exhausted, the Agency may pursue, but is not limited to, the following measures to secure compliance:

1. The Director may require the respondent to post or distribute public notice of the respondent's failure to comply in a form and manner determined by the Agency.

2. The Director may refer the matter to a collection agency. The cost to the City for the collection services will be assessed as costs, at the rate agreed to between the City and the collection agency, and added to the amounts due.

3. The Director may refer the matter to the City Attorney for the filing of a civil action in King County Superior Court, the Seattle Municipal Court, or any other court of competent jurisdiction to enforce such order or to collect amounts due. In the alternative, the Director may seek to enforce a Director's Order or a

final order of the Hearing Examiner under Section 100.105.

4. The Director may request that the City's Department of Finance and Administrative Services deny, suspend, refuse to renew, or revoke any business license held or requested by the hiring entity or person until such time as the hiring entity complies with the remedy as defined in the settlement agreement or final order. The City's Department of Finance and Administrative Services shall have the authority to deny, refuse to renew, or revoke any business license in accordance with this subsection 100.100.A.4.

B. No respondent that is the subject of a final order issued under this ordinance 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 hiring entity.

100.105 Debt owed The City of Seattle

A. All monetary amounts due under the Director's Order shall be a debt owed to the City and may be collected in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies, provided that amounts collected by the City for unpaid compensation, liquidated damages,

penalties payable to aggrieved parties, or front pay shall be held in trust by the City for the aggrieved party and, once collected by the City, shall be paid by the City to the aggrieved party.

B. If a respondent fails to appeal a Director's Order to the Hearing Examiner within the time period set forth in subsection 100.085.B, the Director's Order shall be final, and the Director may petition the Seattle Municipal Court, or any court of competent jurisdiction, to enforce the Director's Order by entering judgment in favor of the City finding that the respondent has failed to exhaust its administrative remedies and that all amounts and relief contained in the order are due. The Director's Order shall constitute prima facie evidence that a violation occurred and shall be admissible without further evidentiary foundation. Any certifications or declarations authorized under RCW 9A.72.085 containing evidence that the respondent has failed to comply with the order or any parts thereof, and is therefore in default, or that the respondent has failed to appeal the Director's Order to the Hearing Examiner within the time period set forth in subsection 100.085.B, and therefore has failed to exhaust the respondent's administrative remedies, shall also be admissible without further evidentiary foundation.

C. If a respondent fails to obtain judicial review of an order of the Hearing Examiner within the time period set forth in subsection 100.095.A, the order of the Hearing Examiner shall be final, and the Director may petition the Seattle Municipal Court to enforce the Director's Order by entering judgment in favor of the City for all amounts and relief due under the order of the Hearing Examiner. The order of the Hearing Examiner shall constitute conclusive evidence that the violations contained therein occurred and shall be admissible without further evidentiary foundation. Any certifications or declarations authorized under RCW 9A.72.085 containing evidence that the respondent has failed to comply with the order or any parts thereof, and is therefore in default, or that the respondent has failed to avail itself of judicial review in accordance with subsection 100.095.A, shall also be admissible without further evidentiary foundation.

D. In considering matters brought under subsections 100.105.B and 100.105.C, the Municipal Court may include within its judgment all terms, conditions, and remedies contained in the Director's Order or the

order of the Hearing Examiner, whichever is applicable, that are consistent with the provisions of this ordinance.

100.110 Private right of action

A. Any person or class of persons that suffers financial injury as a result of a violation of this ordinance, or is the subject of prohibited retaliation under Section 100.055, may bring a civil action in a court of competent jurisdiction against the hiring entity or other person violating this ordinance 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 and liquidated damages in an additional amount of up to twice the unpaid compensation; and a penalty payable to any aggrieved party of up to $5,462.70 if the aggrieved party was subject to prohibited retaliation. 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.

B. For purposes of this Section 100.110, “person” includes any entity a member of which has suffered financial injury or retaliation, or any other individual or entity acting on behalf of an aggrieved party that has suffered financial injury or retaliation.

C. For purposes of determining membership within a class of persons entitled to bring an action under this Section 100.110, two or more gig workers are similarly situated if they:

1. Are or were hired for the same hiring entity or hiring entities, 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. For purposes of subsection 100.110.C, gig workers shall not be considered dissimilar solely because the gig workers’

1. Claims seek damages that differ in amount, or

2. Job titles or other means of classifying gig workers differ in ways that are unrelated to their claims.

100.115 Encouragement of more generous policies

A. Nothing in this ordinance shall be construed to discourage or prohibit a hiring entity from the adoption or retention of a paid sick and paid safe time policy more generous than the one required herein.

B. Nothing in this ordinance shall be construed as diminishing the obligation of a hiring entity to comply with any contract or other agreement providing more generous protections to a gig worker than required by this ordinance.

100.120 Other legal requirements

This ordinance provides minimum requirements for paid sick and paid safe time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater accrual or use by gig workers of sick or safe time, whether paid or unpaid, or that extends other protections to gig workers; and nothing in this ordinance shall be interpreted or applied so as to create any power or duty in conflict with federal or state law. Nor shall this ordinance be construed to preclude any person aggrieved from seeking judicial review of any final administrative decision or order made under this ordinance affecting such person. Nothing in this Section 100.120 shall be construed as restricting a gig worker's right to pursue any other remedies at law or equity for violation of their rights.

100.125 Severability

The provisions of this ordinance are declared to be separate and severable. If any clause, sentence, paragraph, subdivision, section, subsection, or portion of this ordinance, or the application thereof to any hiring entity, gig worker, person, or circumstance, is held to be invalid, it shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 3. Section 3.02.125 of the Seattle Municipal Code, last amended by Ordinance 125948, is amended as follows:

3.02.125 Hearing Examiner filing fees

A. The filing fee for a case before the City Hearing Examiner is $85, with the following exceptions:

Basis for Case	**Fee in dollars**
* * *	
Paid Sick/Safe Leave Ordinance (Chapter 14.16)	No fee
Paid Sick and Safe Time for Gig Workers Ordinance (Introduced as Council Bill 119793)	No fee
Public Accommodations Ordinance (Chapter 14.06)	No fee
* * *	

* * *

Section 4. Subsection 6.208.020.A of the Seattle Municipal Code, which section was last amended by Ordinance 125930, is amended as follows:

6.208.020 Denial, revocation of, or refusal to renew business license

A. In addition to any other powers and authority provided under this Title 6, the Director, or the Director's designee, has the power and authority to deny, revoke, or refuse to renew any business license issued under the provisions of this Chapter 6.208. The Director, or the Director's designee, shall notify such applicant or licensee in writing by mail of the denial, revocation of, or refusal to renew the license and on what grounds such a decision was based. The Director may deny, revoke, or refuse to renew any license issued under this Chapter 6.208 on one or more of the following grounds:

1. The license was procured by fraud or false representation of fact.

2. The licensee has failed to comply with any provisions of this Chapter 6.208.

3. The licensee has failed to comply with any provisions of Chapters 5.32, 5.35, 5.40, 5.45, 5.46, 5.48, 5.50, or 5.52.

4. The licensee is in default in any payment of any license fee or tax under Title 5 or Title 6.

5. The property at which the business is located has been determined by a court to be a chronic nuisance property as provided in Chapter 10.09.

6. The applicant or licensee has been convicted of theft under subsection 12A.08.060.A.4 within

the last ten years.

7. The applicant or licensee is a person subject within the last ten years to a court order entering final judgment for violations of chapters 49.46, 49.48, or 49.52 RCW, or 29 U.S.C. 206 or 29 U.S.C. 207, and the judgment was not satisfied within 30 days of the later of either:

a. The expiration of the time for filing an appeal from the final judgment order under the court rules in effect at the time of the final judgment order; or

b. If a timely appeal is made, the date of the final resolution of that appeal and any subsequent appeals resulting in final judicial affirmation of the findings of violations of chapters 49.46, 49.48, or 49.52 RCW, or 29 U.S.C. 206 or 29 U.S.C. 207.

8. The applicant or licensee is a person subject within the last ten years to a final and binding citation and notice of assessment from the Washington Department of Labor and Industries for violations of chapters 49.46, 49.48, or 49.52 RCW, and the citation amount and penalties assessed therewith were not satisfied within 30 days of the date the citation became final and binding.

9. Pursuant to subsections 14.16.100.A.4, 14.17.075.A, 14.19.100.A.4, 14.20.080.A.4, 14.22.115.A.4, 14.23.115.A.4, 14.26.210.A.4, 14.27.210.A.4, 14.28.210.A.4, and 14.30.180.A.4, and subsection 100.100.A.4 of this ordinance, the applicant or licensee has failed to comply, within 30 days of service of any settlement agreement, with any final order issued by the Director of the Office of Labor Standards, or any final order issued by the Hearing Examiner under Chapters 14.16, 14.17, 14.19, 14.20, 14.22, 14.23, 14.26, 14.27, 14.28, 14.29, and 14.30, and this ordinance, for which all appeal rights have been exhausted, and the Director of the Office of Labor Standards has requested that the Director deny, refuse to renew, or revoke any business license held or requested by the applicant or licensee. The denial, refusal to renew, or revocation shall remain in effect until such time as the violation(s) under Chapters 14.16, 14.17, 14.19, 14.20, 14.22, 14.23, 14.26, 14.27, 14.28, 14.29, and 14.30, and this ordinance are remedied.

10. The business is one that requires an additional license under this Title 6 and the business

does not hold that license.

11. The business has been determined under a separate enforcement process to be operating in violation of law.

* * *

Section 5. This ordinance shall be automatically repealed without subsequent Council action: three years after the termination of the civil emergency proclaimed by the Mayor on March 3, 2020; three years after the termination of any concurrent civil emergency proclaimed by a public official in response to the COVID-19 public health emergency and applicable to the City; or on December 31, 2023, whichever is latest.

Section 6. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2020, and signed by me in open session in authentication of its passage this _____ day of _____, 2020.

_____

President _____ of the City Council

Approved by me this _____ day of _____, 2020.

_____

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2020.

_____

Monica Martinez Simmons, City Clerk

(Seal)