Legislation Details (With Text)

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Type:	Ordinance (Ord)	**Status:**	Passed
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On agenda:	8/10/2020		
Final Action:	8/14/2020	**Ord. No.**	Ord 126123
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 100.015 and 100.080 of Ordinance 126091 to make technical corrections.		
Sponsors:	Teresa Mosqueda		
Indexes:			
Attachments:	1. Summary and Fiscal Note, 2. Central Staff Memo, 3. Signed Ordinance 126123, 4. Affidavit of Publication		

Date	Ver.	Action By	Action	Result
8/14/2020	1	City Clerk	attested by City Clerk	
8/14/2020	1	Mayor	returned	
8/14/2020	1	Mayor	Signed	
8/14/2020	1	City Clerk	submitted for Mayor's signature	
8/10/2020	1	City Council	passed	Pass
8/3/2020	1	City Council	referred	
7/31/2020	1	Council President's Office	sent for review	
7/30/2020	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 100.015 and 100.080 of Ordinance 126091 to make technical corrections.

WHEREAS, in June 2020, the City Council (Council) passed Ordinance 126091 (Paid Sick and Safe Time for Gig Workers Ordinance), requiring food delivery network companies and transportation network companies to provide gig workers with paid sick and paid safe time for work performed in Seattle during the new coronavirus 19 emergency; and

WHEREAS, the Paid Sick and Safe Time for Gig Workers Ordinance went into effect on July 13, 2020; and

WHEREAS, The City of Seattle 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, amending the Paid Sick and Safe Time for Gig Workers Ordinance to make technical corrections will support implementation and enforcement of the ordinance's requirements; and

WHEREAS, amending the Paid Sick and Safe Time for Gig Workers Ordinance requires appropriate action by the Council; 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 making technical amendments to the Paid Sick and Safe Time for Gig Workers Ordinance that are consistent with the Council's intention and that will support implementation and enforcement of ordinance requirements.

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 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.

G. 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.

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

I. 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.

J. 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.

K. On June 19, 2020, Washington State Secretary of Health John Wiesman approved King County to move to Phase 2 of the "Safe Start" plan. Under Phase 2, restaurants must comply with health and safety requirements that include limiting guest occupancy to 50 percent or less of the maximum building occupancy,

limiting table size to five guests or fewer, and prohibiting bar seating.

L. On July 23, Governor Jay Inslee and Washington State Secretary of Health John Wiesman announced changes to the "Safe Start" plan to slow COVID-19 exposure, including a new requirement that restaurants limit indoor parties to members of the same household. The announcement also confirmed that takeaway remains available for small parties from different households.

M. As of July 28, 2020, the WHO Situation Report reported a global total of 16,341,920 cases of COVID-19, including 650,805 deaths; the Washington State Department of Health and Johns Hopkins University reported 53,321 cases of COVID-19, including 1,518 deaths in Washington State; and Public Health - Seattle & King County reported 14,579 cases of COVID-19, including 645 deaths, in King County.

N. In June 2020, the Council passed Ordinance 126091 (Paid Sick and Safe Time for Gig Workers Ordinance) to support gig workers working for food delivery network companies and transportation network companies during the COVID-19 emergency.

O. Effective July 13, 2020, the Paid Sick and Safe Time for Gig Workers Ordinance requires covered food delivery network companies and transportation network companies to provide gig workers working in Seattle with paid leave to care for their personal and family members' health conditions or safety needs.

P. Food delivery network companies and transportation network companies are required to provide gig workers with 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.

Q. The City's Office of Labor Standards (OLS) implements and enforces the Paid Sick and Safe Time for Gig Workers Ordinance. If OLS finds that a food service delivery network company or transportation network company violated the ordinance, the Director can issue an order requiring payment of unpaid compensation to the gig worker(s) and penalties payable to the City and the gig worker(s).

R. 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.

S. 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.

T. Gig workers working for food delivery network companies and transportation network companies are essential workers performing 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.

U. 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.

V. Gig workers making food deliveries 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.

W. 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.

X. 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.

Y. 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.

Z. 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.

Section 2. Section 100.015 of Ordinance 126091 is amended as follows:

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.

C. Gig workers who are employees under Seattle Municipal Code Chapter 14.16 for covered hiring entities are not covered gig workers under this ordinance. Hiring entities must provide such gig workers with paid sick and paid safe time in accordance with their obligations under Seattle Municipal Code Chapter 14.16.

Section 3. Section 100.080 of Ordinance 126091 is amended as follows:

100.080 Remedies

* * *

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.~~)) 4. 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.

Section 4. 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)