

## SUMMARY and FISCAL NOTE

<b>Department:</b>	<b>Dept. Contact:</b>	<b>CBO Contact:</b>
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### **1. BILL SUMMARY**

**Legislation Title:** AN ORDINANCE relating to app-based worker labor standards; establishing a new compensation scheme for app-based workers with minimum pay requirements and related standards for transparency and flexibility; amending Sections 8.37.020, 8.37.050, 8.37.060, 8.37.070, 8.37.080, 8.37.100, 8.37.110, 8.37.120, 8.37.125, 8.37.165, and 8.37.170 of the Seattle Municipal Code; and repealing Section 8.37.230 of the Seattle Municipal Code.

**Summary and Background of the Legislation:** Network companies use online-enabled applications or platforms to connect customers with workers, present offers to workers, and/or facilitate the provision of services by workers. Network companies rely on business models that treat app-based workers as independent contractors who are not classified as employees and therefore are not covered by labor standards established by federal, state, and local laws. In 2022, Council passed the App-Based Worker Minimum Payment Ordinance, which established minimum payment, transparency, and flexibility protections for app-based workers who work for network companies.

The ordinance went into effect on January 13, 2024 and is implemented by the Office of Labor Standards (OLS). In response to increased labor costs associated with the new labor standard, some network companies subsequently increased consumer fees. Council has heard from workers, customers, restaurants, and network companies (through public testimony, written correspondence, and other communications) on the immediate impacts of the new requirements, including but not limited to (1) the increased cost of food delivery, (2) fewer orders, (3) longer wait times for workers between orders, and (4) overall reduced earnings by both restaurants and workers. Some workers also reported steady earnings, but with fewer offers.

This legislation would amend the App-Based Worker Minimum Payment Ordinance with the intention of reducing labor costs for network companies, while still guaranteeing a minimum earnings standard for app-based workers (albeit reduced). The list of changes would include, but are not limited to:

#### 1. Pay Standard

- Remove minimum wage adjustments (associated cost factor, associated time factor)
- Reduce per-mile rate and remove the mileage factor
- Resulting minimum payment standard of \$19.97/hour + \$0.35/mile for engaged time while a worker is performing an offer
- Engaged time (paid time) for on-demand offers would be calculated when worker is “en route” instead of upon acceptance, if performance is not expected immediately upon acceptance

- No payment for offers cancelled with cause, unless a customer changes drop-off location after item is picked up, resulting in five or more minutes of additional engaged time
- Pay would be calculated over a network company earnings period, instead of per-offer
- Incentives and bonuses would count toward minimum earnings standard

## 2. Transparency

- Remove certain requirements from up-front disclosure: delivery locations, accessibility, unsealed contents, and customer tip
- Reduce time to review offer from two minutes to 45 seconds
- Extend time to provide worker receipt from 24 hours to 48 hours after incurring engaged time
- Remove certain requirements from worker receipt: method used to calculate payment and pick-up/drop-off locations for deliveries
- Eliminate requirements for receipts to customer
- Eliminate OLS’s ability to require affirmative records production from companies for purposes of administration, evaluation, and enforcement

## 3. Flexibility

- Remove prohibition on a network company taking “adverse action” against a worker for lower offer acceptance rate or limited availability, and permit other actions up to termination of the worker’s contract for such reasons.
- Allow the network company to limit worker access to the app, if the network company discloses the reason
- Narrow and specify the list of reasons a worker can cancel an offer with cause (and therefore not be terminated from the app for cancellation)

## 4. Enforcement Provisions

- Modify anti-retaliation protections, eliminating presumptions that would otherwise establish retaliation
- Modify OLS rulemaking authority, clarifying scope of permissible rules
- Eliminate private right of action
- Establish a cure period for certain “non-willful” violations, which would prevent OLS from assessing penalties, fines, or other costs for those violations

## 2. CAPITAL IMPROVEMENT PROGRAM

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

Yes  No

## 3. SUMMARY OF FINANCIAL IMPLICATIONS

**Does this legislation have financial impacts to the City?**

Yes  No

Amending the App-Based Worker Minimum Payment Ordinance would likely have financial impacts for OLS, as the office could incur additional costs to revise rules, outreach materials, and

enforcement procedures. To a lesser extent, there could be impacts on the City Attorney’s Office for advising OLS on revised rules and enforcement procedures.

Central Staff is prepared to work with OLS and the City Budget Office to develop estimates of these costs, including the impact of additional work on OLS’s existing programs and priorities, whether the costs are short- or long-term, and whether the costs could be absorbed within OLS’s existing budget authority.

In the 2024 Adopted Budget, OLS received about \$493,000 to implement the existing App-Based Worker Minimum Payment Ordinance. Of this amount, \$50,000 was intended to support an outreach campaign, including ad placements, translated informational materials, trainings, and contracted partnerships with local organizations to reach community members with culturally competent and linguistically appropriate services. The remaining amount, \$443,000, continued funding for three positions that were added in the 2023 Adopted Budget: (1) Administrative Staff Assistant; (2) Data Analyst; and (3) Policy Analyst.

To better understand financial implications, Central Staff will request information on the status of outreach campaign expenditures to determine the amount of funds that have already been spent or obligated under contract(s) and the extent to which OLS could reshape the outreach campaign within their existing budget authority to address amended requirements. Central Staff will also request information on the body of work for the three positions to get a better understanding of whether the positions could absorb additional work associated with the proposed amendments. However, it is unclear whether there will be time for Central Staff to receive and analyze this information prior to Council voting on this legislation.

*Financial impacts are not yet known; Central Staff is prepared to work with OLS and CBO to develop estimates on potential costs and position changes to complete the below chart.*

<b>Expenditure Change (\$); General Fund</b>	<b>2024</b>	<b>2025 est.</b>	<b>2026 est.</b>	<b>2027 est.</b>	<b>2028 est.</b>
<b>Expenditure Change (\$); Other Funds</b>	<b>2024</b>	<b>2025 est.</b>	<b>2026 est.</b>	<b>2027 est.</b>	<b>2028 est.</b>

<b>Revenue Change (\$); General Fund</b>	<b>2024</b>	<b>2025 est.</b>	<b>2026 est.</b>	<b>2027 est.</b>	<b>2028 est.</b>
<b>Revenue Change (\$); Other Funds</b>	<b>2024</b>	<b>2025 est.</b>	<b>2026 est.</b>	<b>2027 est.</b>	<b>2028 est.</b>

<b>Number of Positions</b>	<b>2024</b>	<b>2025 est.</b>	<b>2026 est.</b>	<b>2027 est.</b>	<b>2028 est.</b>
<b>Total FTE Change</b>	<b>2024</b>	<b>2025 est.</b>	<b>2026 est.</b>	<b>2027 est.</b>	<b>2028 est.</b>

### 3.d. Other Impacts

Does the legislation have other financial impacts to The City of Seattle, including direct or indirect, one-time or ongoing costs, that are not included in Sections 3.a through 3.c? If so, please describe these financial impacts. N/A

**If the legislation has costs, but they can be absorbed within existing operations, please describe how those costs can be absorbed. The description should clearly describe if the absorbed costs are achievable because the department had excess resources within their existing budget or if by absorbing these costs the department is deprioritizing other work that would have used these resources.**

Central Staff is prepared to work with OLS and CBO to understand if/how any additional costs could be absorbed within existing operations.

**Please describe any financial costs or other impacts of *not* implementing the legislation.** If this legislation is not implemented, OLS will continue to administer the App-Based Worker Minimum Payment Ordinance as enacted and within the office's existing operations. Notably, this legislation is intended to address the reported negative impacts of such requirements on workers, restaurants, customers, and network companies. More information is necessary for Central Staff to forecast the implications of *not* implementing the legislation on these entities.

### 4. OTHER IMPLICATIONS

**a. Please describe how this legislation may affect any departments besides the originating department.**

This legislation is Council-generated. Impacts on other departments include: OLS's implementation of amendments; the City Attorney Office's responses to legal referrals from OLS; and the Hearing Examiner's responses to requests for hearings on appeals from respondents and aggrieved parties.

**b. Does this legislation affect a piece of property? If yes, please attach a map and explain any impacts on the property. Please attach any Environmental Impact Statements, Determinations of Non-Significance, or other reports generated for this property.**

No.

**c. Please describe any perceived implication for the principles of the Race and Social Justice Initiative.**

**i. How does this legislation impact vulnerable or historically disadvantaged communities? How did you arrive at this conclusion? In your response please consider impacts within City government (employees, internal programs) as well as in the broader community.**

The City's Race and Social Justice Initiative works toward eliminating racial disparities and achieving racial equity in Seattle. Black, Indigenous, and other People of Color face unique barriers to economic insecurity and disproportionately work in low-wage jobs with insecure working conditions. Black and Latinx workers are overrepresented among

app-based workers, comprising almost 42 percent of app-based workers but less than 29 percent of the overall labor force. Many restaurants using app-based delivery services are small businesses owned by individuals or families in low-income and historically disenfranchised communities. Customers, including those with disabilities, may depend on app-based workers to provide essential services, such as delivery of prepared food and groceries.

This legislation intends to address reports of negative impacts of the App-Based Worker Minimum Payment Ordinance, a labor standard covering 40,000 app-based workers that was approved by Council in 2022 and became effective on January 13, 2024.

This legislation includes agreed-upon amendments advanced by [Drive Forward](#) (gig worker organization) and several covered network companies. The intention of these amendments is to reduce costs for customers, increase orders to restaurants, and improve pay for a growing workforce that is disproportionately comprised of BIPOC workers.

More information is necessary for Central Staff to understand the current impacts of the App-Based Worker Minimum Payment Ordinance and forecast implications of the proposed amendments.

**ii. Please attach any Racial Equity Toolkits or other racial equity analyses in the development and/or assessment of the legislation.**

N/A

**iii. What is the Language Access Plan for any communications to the public?**

OLS would create and distribute model notices of rights in English and other languages. Network companies would provide workers with a notice of rights (via smartphone application, email, or online web portal) in English and any language included in the OLS model notices.

Additionally, OLS has existing contracts with community and business organizations to provide culturally competent and language-specific outreach on the City's labor standards to low-income workers and small businesses. While there is not an established language access plan for informing the public about this legislation, Central Staff is prepared to work with OLS to determine if existing contracts, or the funds dedicated for the outreach campaign, could be used for such purposes.

**d. Climate Change Implications**

**i. Emissions: How is this legislation likely to increase or decrease carbon emissions in a material way? Please attach any studies or other materials that were used to inform this response.**

N/A

- ii. **Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle’s resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.**

N/A

- e. **If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program’s desired goal(s)? What mechanisms will be used to measure progress towards meeting those goals?**

During enforcement actions, OLS would have authority to require network company records and could use these records to determine whether individual companies are complying with the ordinance and evaluate progress toward meeting the ordinance’s policy goals.

OLS posts information on outreach and enforcement efforts on its [on-line, interactive dashboard](#). OLS could use the same metrics publicized for other labor standards (e.g., number of inquiries, number of investigations, and amounts of remedies) for this legislation.

## 5. CHECKLIST

Please click the appropriate box if any of these questions apply to this legislation.

- Is a public hearing required?**
- Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required?**
- If this legislation changes spending and/or revenues for a fund, have you reviewed the relevant fund policies and determined that this legislation complies?**
- Does this legislation create a non-utility CIP project that involves a shared financial commitment with a non-City partner agency or organization?**  
If yes, please review requirements in Resolution 31203 for applicability and complete and attach “Additional risk analysis and fiscal analysis for non-utility partner projects” form.

## 6. ATTACHMENTS

**List Summary Attachments (if any):**

Summary Attachment 1 – Ordinance 126595 – App-Based Worker Minimum Payment Ordinance