



# Seattle City Council Approves Wage Hike for App-Based Delivery Drivers: What Gig Economy Businesses Need to Know

Insights

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Gig economy businesses may soon need to ensure all app-based delivery drivers working in Seattle earn the city's minimum wage, which is currently \$17.27 an hour. Under the proposed ordinance the Seattle City Council unanimously passed on May 31, gig economy companies will be required to reimburse covered workers for business expenses and tips may not be credited towards minimum wage. Additionally, companies will be prohibited from requiring those workers to accept a certain number of jobs or work a minimum number of hours. App-based delivery drivers will still be deemed independent contractors under the measure, but business groups fear the policy will eliminate the flexibility that gig workers seek and drive-up costs for consumers. The legislation is still pending approval from Mayor Bruce Harrell, but the mayor has indicated his support by saying that "gig workers deserve a fair shake and a fair wage." What do you need to know about the measure?

## Who is Covered?

Seattle's Council Bill 120294 will apply to gig-economy businesses with at least 250 app-based workers worldwide, including for a chain, integrated enterprise, or franchise network in aggregate. Covered "app-based workers" include app-based restaurant delivery drivers, grocery shoppers, and workers who are hired through certain staffing apps, even if otherwise classified as independent contractors.

"Marketplace" apps that connect independent businesses with consumers who are seeking their services – such as pet-sitting and home maintenance services – were ultimately excluded from the bill, Bloomberg Law reported. The Seattle City Council said it "intends to consider regulations for minimum payment, transparency, and flexibility for marketplace network companies no later than August 1, 2023."

Notably, drivers who work for ride-sharing services known as "transportation network companies" are not covered by the bill because they already must be paid a minimum wage in Seattle under an existing law.

## What Does the New Policy Mean for Businesses?

According to the Seattle City Council, the new policy will accomplish the following three goals:

According to the Seattle City Council, the new policy will accomplish the following three goals:

- Ensure app-based workers are paid minimum wage, plus their expenses and tips;
- Create more transparency about working terms and how payments are allocated; and
- Protect flexibility and transparency for app-based workers.

“App-based work is one of the fastest growing sectors of our economy with more workers turning to this type of work. The passage of this legislation will help tens of thousands of delivery workers make ends meet while maintaining their flexibility,” said Councilmember Lisa Herbold, a sponsor of the bill.

But business groups say workers will lose flexibility and consumers will have to pay more for the app-based services they rely on. “On the surface, this looks like it will help raise the standard of living for delivery workers. History shows this will not be the case,” according to the Washington Policy Center, a non-profit think tank that advocates for free-market solutions.

Ride-sharing companies have already raised their rates significantly in Seattle due to several factors, including the wage hike for app-based transportation drivers.

“A similar increase in customer prices is likely to ensue to cover the additional cost for the \$17 per hour minimum wage,” wrote Mark Harmsworth for the Washington Policy Center. He’s concerned that fewer orders will be fulfilled, “and gig workers will have less work.”

Council Bill 120294 is part of a larger group of bills known as the PayUp Policy Package. Five additional bills – which are still pending – address restroom access, anti-discrimination policies, background checks, protections for app-based workers from being deactivated, and the creation of a Seattle gig-worker advisory board.

## **The Trend Continues**

If Council Bill 120294 is finalized, Seattle may be the first U.S. city to set a minimum wage for app-based delivery drivers. But other cities are considering similar legislation, and New York City is slated to be next. NYC already requires a minimum wage for ride-sharing drivers and will set a minimum pay rate for app-based food delivery workers by January 1, 2023. Moreover, several new rules for app-based NYC food delivery workers just took effect on April 22, 2022. The new rules require covered businesses to provide disclosures to workers about routes, pay, and gratuities. Among other rights, covered NYC food delivery workers can set limits on the distances they are willing to travel from restaurants and decline to use certain bridges and tunnels.

Additionally, Massachusetts is embroiled in several battles over whether gig drivers should be treated as employees or independent contractors. One of those fights currently centers on whether Massachusetts voters will be given the opportunity to vote on the issue through a November 2022 ballot question. The state Supreme Judicial Court recently heard argument on that issue.

As these issues develop, we will continue to assess the situation and provide necessary updates, so you should ensure you are subscribed to [Fisher Phillips' Insight system](#) to gather the most up-to-date information. If you have questions, please contact your Fisher Phillips attorney, the authors of this Insight, or any member of our [Gig Economy Practice Group](#) or [Seattle](#) office.

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