



Fight Over Seattle's Attempt To Unionize On-Demand Economy Reaches Critical Point

Insights

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If the City of Seattle has its way, your next ride-sharing driver could be part of a first-of-its-kind union. And if on-demand economy companies have their way, the courts will block any such unionization efforts before they end up altering the way these companies currently operate. Although this battle has been brewing for over a year, we're reaching a critical point in the fight, and we might now the direction this situation will take sooner rather than later.

By way of quick background, the City of Seattle passed an ordinance in early 2016 aimed at unionizing ride-sharing drivers, the first of its kind in the country. The ordinance would first force ride-hailing apps to provide the City with a list of their drivers to aid the newly formed App-Based Drivers Association (affiliated with Teamsters Local 117) in contacting the drivers to determine if they themselves actually want to unionize. It would then permit designated unions to serve as representatives for the collection of drivers operating across different ride-sharing platforms, collectively bargaining over wages and other working terms. If an agreement is not reached, the ordinance would impose contract terms on drivers and companies through binding interest arbitration.

The first challenge to the ordinance did not get off the ground. The U.S. Chamber of Commerce tried to join the fight by filing a lawsuit against the City, but a federal judge dismissed that lawsuit in August 2016 by concluding the lawsuit was premature. But once the rules went into effect in January 2017, the gloves came off. Three separate legal challenges are now pending to challenge the law:

- The U.S. Chamber re-filed its lawsuit in March, pointing out that the ordinance violates federal law in that it permits independent contractors to collectively join together to fix prices and contractual terms. This violates the Sherman Act, according to the Chamber. Moreover, the lawsuit alleges the ordinance is preempted by the National Labor Relations Act (NLRA) and violates several other state and federal laws. The lawsuit argues that this ordinance has the potential to cripple the for-hire driver industry and the on-demand economy as a whole, as 40,000 other local jurisdictions could decide to pass their own similar regulations and create an unworkable patchwork of laws.
- Uber filed its own lawsuit against the ordinance and sought an immediate ruling to strike it down on the grounds that it was created through an illegal rulemaking process. Last week, a federal

court judge rejected Uber's argument but granted the company a petition for a constitutional writ challenging the law. This will lead to the company taking the fight to the next level in Seattle.

- Meanwhile, 11 independent drivers brought their own federal lawsuit against the City of Seattle last week, claiming the law is unconstitutional and forces all drivers to follow rules that they did not agree to. The lawsuit, filed last week, makes similar legal claims as the U.S. Chamber lawsuit (NLRA preemption, specifically) but also includes allegations that the ordinance violates the First Amendment rights to free speech and freedom of association by imposing union representation and forcing dues upon them.

If these challenges are not successful, we can expect to see unionization efforts continue apace, and the Teamsters Association will no doubt begin to put the full-court press on drivers to try to form the first-ever gig union.

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