

Overview of State and Local Laws and Policy Proposals

Regarding the Compensation, Wellbeing, and Fair Treatment of
Transportation Network Company Drivers

Samantha Diaz, SEIU Local 26 Political Director

Brian Elliott, SEIU MN State Council Executive Director



Laws & Policy Proposals

Applying Specifically to TNC Drivers

- **California**
 - AB5 - Enacted 1/1/20 but Overturned by Prop 22
 - Prop 22 - Enacted 12/16/20
- **Colorado** SB23-098 - Failed in Senate Committee 5/2/23
- **Connecticut** SB 1180 - Converted to a study in Senate 5/17/23, not acted on by House
- **Massachusetts**
 - H.1158/S.627 - Pending
 - H.1099/S.666 - Pending
 - S.1157 - Pending
 - H.1848 - Pending
- **Michigan** HB 4390 - Pending
- **Minnesota** HF2369 - Vetoed 5/25/23
- **New York State** Assurances of Discontinuance - Settled 11/1/23
- **Washington State** HB 2076 (2022) - Enacted 6/9/22
- **Chicago**
 - O2023-0001748 - Pending
 - O2023-239 - Pending
- **Minneapolis** 2023-00044 - Vetoed 8/22/23
- **New York City**
 - Local Law 2018/150 & Driver Pay Rules - Enacted 8/14/18
 - Int. No. 1078 - Pending
- **Seattle**
 - Ch 14.33 - Enacted 10/29/20 then largely preempted by WA HB 2076
 - Ordinance 126878 - Enacted 9/7/23 with some provision future effective dates

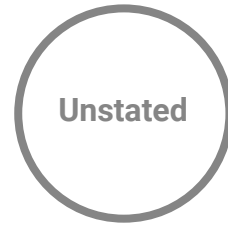
Policy Areas

- Employment Status
- Driver Compensation
 - Pay
 - Benefits
 - Expense Coverage
- Fare Transparency
- Deactivation Process Rights
- Driver Safety & Accident Insurance
- Enforcement
- Review Process (ie: how is the policy updated)

Employment Status in Policy



- Covered by all applicable labor law
 - Minimum wage
 - Overtime
 - Unemployment and workers comp benefits
 - Health insurance
 - Paid leave
 - Collective bargaining
- Use the “ABC Test” to determine status



- Current status in majority of reviewed jurisdictions
- This is the impetus behind the many policy conversations



- Must pay employer payroll taxes
- No inherent labor protections like minimum wage, collective bargaining, unemployment or workers comp benefits
- Only covered by minimum standards explicitly applied

Driver Compensation

Pay

- Per minute rate that achieves the minimum targeted pay *plus* 100% of tips
 - Often based on the applicable minimum wage for all time on app, scaled up by a utilization factor if paid on just part of app time (ie: P3 or P2+P3 only)
 - NYC explicitly adds employer payroll tax rate
- Some policies include
 - Per-dispatch minimum pay
 - Higher rate for long returns
 - Minimum percent of passenger fare
 - Overtime
 - Applicable minimum wage for any required training time

Benefits

- Earned sick and safe time via app
 - Accrued and paid at greater of per minute or driver's average rate, or
 - Add on to per-minute rate
- Some policies require
 - Unemployment insurance coverage
 - Healthcare coverage
 - Per ACA requirements for employees,
 - Subsidy based on hours worked, or
 - Add on to per mile or per minute rate
 - State paid family and medical leave

Expense Coverage

- Per mile rate that covers average driver expenses
 - Vehicle costs, including acquisition costs, maintenance and repairs, wear and tear, fuel, insurance, and registration fees
 - Cell phone costs
 - Scaled up by a utilization factor if paid on miles during just part of app time
- Some policies include an increase for wheelchair accessible vehicles (as additional vehicle expense)
- Chicago requires per-trip fee to city fund to support vehicle maintenance and safety equipment

Fare Transparency

- Clear contract in the driver's primary language
 - How pay is computed
 - All fees and deductions
 - Advance driver authorization of deductions and contract changes
- Itemized notices
 - Pre-trip notice, including estimated fare, mileage, duration, and minimum pay
 - Trip receipt within 24 hours, including origin, destination, total time and distance on which rate is based, itemized passenger fare, applicable rates of pay and variable pricing, tip, gross and net pay, and itemized deductions and expenses
 - Weekly summary of trip receipts in aggregate and by trip
- Contract and 2-3 years of trip data easily accessible by drivers through platform

Deactivation Process Rights

- Clear notice of rules specifying violations and corresponding sanctions
 - Determined either by TNC, public policy, or governmental rulemaking
 - Process to opt-out of binding private arbitration
- Notification of deactivation
 - No later than time of deactivation for “egregious” violations
 - 5-14 days in advance for other violations
 - Detailing alleged violation of specific rule and all relevant evidence, effective date, and duration
 - Noting right to appeal, to be represented, and protection from retaliation
- Accessible appeals process
 - TNC or neutral arbitrator (administrative law judge, enforcement agency, or mutually agreed 3rd party)
 - Burden of proof on TNC based on preponderance of the evidence
 - Time limited to both request and process appeals
 - May include deactivations prior to policy effective date
- Representation by worker organization
 - Driver Resource Center funded by per-trip fee (\$0.08-\$0.15)
 - Labor Union recognized through state-authorized process

Driver Safety

- Passenger Identity Verification
 - Registration with government ID
 - Multi-factor account protection
 - Account monitoring and driver notification if passenger account may be compromised
 - Current home address, phone number
 - Clear profile photo
 - Credit card matches passenger name
- Full cooperation with criminal investigation
- Specific penalties for threatening or assaulting a driver

Accident Insurance

- Liability Insurance Coverage
 - Provided by TNC
 - \$1 million while transporting passenger
 - May include some coverage during P1 and P2
 - MN drivers have requested a lower deductible
- Disability Coverage
 - Worker's Compensation
 - Disability/Personal Injury Insurance
 - State Paid Medical Leave
 - Injury Fund from per-trip fees

Enforcement

- Injunctive relief
- Double or treble damages to driver
- Clear protections against retaliation
- Government agency oversight
 - Funded by per-trip fee and administrative fines
 - Investigation and determination authority
 - Aggregate and trip-specific records access
- Driver outreach and education
 - Driver Resource Center funded by per-trip fee
- Private right of action
- Collectively bargained grievance process

Review Process

- Legislative Action
- Inflation adjustment
- Agency
 - Regular (annual) review
 - Rulemaking authority
- Collective bargaining

Questions & Discussion