



Office of the City Clerk

City Hall
121 N. LaSalle St.
Room 107
Chicago, IL 60602
www.chicityclerk.com

Legislation Details (With Text)

File #: O2022-624

Type: Ordinance **Status:** Failed to Pass

File created: 2/23/2022 **In control:** City Council

Final action: 5/24/2023

Title: Amendment of Municipal Code Titles 2, 3, 4, 8 and 9 by modifying various sections and adding new sections regarding living wage and safety regulations for transportation network drivers

Sponsors: Sawyer, Roderick T., La Spata, Daniel, Rodriguez, Michael D., Martin, Matthew J., Rodriguez Sanchez, Rossana, Sigcho-Lopez, Byron, Hadden, Maria E., Villegas, Gilbert, Lopez, Raymond A., Moore, David H., Ramirez-Rosa, Carlos, Vasquez, Jr., Andre, Cardona, Jr., Felix, Napolitano, Anthony V., King, Sophia D., Waguespack, Scott, Sposato, Nicholas, Silverstein, Debra L.

Indexes: Ch. 14 Dept. of Administrative Hearings, Ch. 4 Public Peace & Welfare, Ch. 46 Chicago Ground Transportation Tax, Ch. 104 Public Chauffeurs, Ch. 114 Public Passenger Vehicles other than Taxicabs, Ch. 115 Transportation Network Providers, Ch. 395 Excluded Worker Safety Committee

Attachments: 1. O2022-624.pdf

Date	Ver.	Action By	Action	Result
5/24/2023	1	City Council	Failed to Pass	
12/27/2022	1	Committee on License and Consumer Protection	Add Co-Sponsor(s)	
10/26/2022	1	Committee on License and Consumer Protection	Add Co-Sponsor(s)	
10/18/2022	1	Committee on License and Consumer Protection	Add Co-Sponsor(s)	
9/21/2022	1	Committee on License and Consumer Protection	Add Co-Sponsor(s)	
7/13/2022	1	Committee on License and Consumer Protection	Add Co-Sponsor(s)	
3/14/2022	1	Committee on License and Consumer Protection	Add Co-Sponsor(s)	
2/23/2022	1	City Council	Referred	

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Section 2-14-030 of the Chicago Municipal Code is hereby amended by deleting the language struck through, and inserting the language underscored, as follows:

2- 14-030 Powers and duties of the director.

The powers and duties of the director of the Office of Labor Standards shall include:

(Omitted text is unaffected by this ordinance)

5) establishing a system for hearing of grievances brought by tenants of the Chicago Housing Authority against the authority and/or its property managers, all in accordance with an intergovernmental agreement between the City of Chicago and the Chicago Housing Authority;

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- 6) establishing systems for adjudicating matters pursuant to intergovernmental agreements entered into between the City of Chicago and other units of government; and
- 7) establishing systems for adjudicating appeals of transportation network driver suspension, pursuant to Chapter 9-115; and
- 8) establishing any other necessary rules and regulations as may be required to carry out the provisions of this chapter.

SECTION 2. Section 3-46-079 of the Municipal Code of Chicago is hereby amended by deleting the language struck through, and by inserting the language underscored, as follows:

3- 46-079 Reserved. Deposit of Funds.

All proceeds resulting from the imposition of the tax imposed by this chapter, including any interest or penalties related to the tax, shall be deposited as follows:

- a) \$1.00 per month per taxicab from the tax imposed pursuant to Section 3-46-030(BH1)(a) shall be deposited in the Public Chauffeur Assistance Fund;
- b) \$0.01 per trip from the tax imposed pursuant to Section 3-46-030(B)(1)(b-1[^] shall be deposited in the Public Chauffeur Assistance Fund;
- c) the remainder shall be deposited in the City's corporate fund.

SECTION 3. Chapter 8-4 of the Municipal Code of Chicago is hereby amended by inserting new Section 8-4-079, as follows:

8-4-079 Assault of public chauffeur licensees

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(a) Definitions. The following definitions are applicable strictly in the context of this section:

- 1) "Battery" has the meaning ascribed to that term in the Illinois Criminal Code, codified at 720 ILCS 5/12-3.
- 2) "Public chauffeur licensee" has the meaning ascribed to that term in Chapter 9-104. (3) "Public passenger vehicle" has the meaning ascribed to that term in Chapter 9-114. (4) "Taxicab" has the meaning ascribed to that term in Chapter 9-112. (5) "Transportation network vehicle" has the meaning ascribed to that term in Chapter 9-115.

b) Assault against a public chauffeur licensee. There is hereby created the offense of assault against a public chauffeur licensee. A person commits assault against a public chauffeur licensee when such person engages in conduct that places a public chauffeur licensee in reasonable apprehension of receiving a battery while such licensee is providing transportation services.

c) Penalties for violation. The following penalties shall apply to a violation of this section:

- 1) the penalty for a first offense shall be a fine of not less than \$1,000 nor more than \$5,000;

- 2) the penalty for a second offense shall be a fine of not less than \$5,000 nor more than \$15,000; and
- 3) the penalty for a third or subsequent offense shall be a fine of not less than \$10,000 nor more than \$20,000.

(d) Use of Funds. All penalties collected pursuant to this section shall be deposited into the Public

Chauffeur Assistance Fund created pursuant to Section 9-104-150.

SECTION 4. Chapter 9-104 of the Municipal Code of Chicago is hereby amended by inserting new Section 9-104-150, as follows:

9-104-150 Public Chauffeur Assistance Fund-There is hereby created a fund to be known as the "Public Chauffer Assistance Fund", for the sole purpose of promoting the safety of public chauffeur licensees. Funds collected pursuant to Section 3-46-079 and Section 8-4-079 of this Code and other sources, as may be appropriated from time to time, shall be deposited in the Public Chauffeur Assistance Fund and are hereby authorized for use in connection with the programs authorized under this section.

Using the funds deposited in the Public Chauffeur Assistance Fund, the Commissioner shall establish a program for providing assistance to restricted chauffeur licensees and taxi chauffeur licensees who are not required to be affiliated with a taxicab affiliation under the exception in 9112-100(a)(3). Such program may include the following: (i) assistance with maintenance payments, including contracting for one or more locations throughout the City where transportation network

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vehicles and taxicabs may receive City-subsidized routine maintenance and minor repairs; and (ii) grants of safety equipment, such as protective barriers and "dash cams" for transportation network vehicles and taxicabs, whether through cash grants to eligible restricted

chauffeur licensees and taxi chauffeur licensees, or direct grants of safety equipment procured by the Department.

SECTION 5. Section 9-114-265 of the Municipal Code of Chicago is hereby amended by deleting the language struck through, and by inserting the language underscored, as follows:

9-114-265 Fare rates higher than regular rates.

a) A licensee licensed under this chapter or Chapter 9-115 of this Code, or a taxi dispatcher, only as provided in Section 9-112-600(i) of this Code, may charge passengers at a higher fare rate than the applicable regular fare rate provided to the Commissioner pursuant to Section

9115-200 and displayed in the licensee's Internet-enabled application or digital platform, or, if the dispatched vehicle is a taxicab only if such licensee or such licensee's dispatch complies with all of the following requirements:

i) *the licensee or the licensee's dispatch, through the licensee's or the dispatch's Internet-enabled application or digital platform and e-mail accounts of the licensee's subscribers, provide public notice of the time period when the higher fare rate would apply; en*4*

ii) *the licensee's or the licensee's dispatch Internet-enabled application or digital platform clearly provides to a customer requesting a trip the option to obtain the total reasonable fare estimate of the trip in a range expressed in dollars*

and cents, in addition to any applicable rate multiplier. The on-screen prompt for the choice to decline the fare estimate shall be smaller in size than the on-screen prompt to accept that estimate. For purposes of this section, the commissioner is authorized to regulate, by rule, the permissible range of fare estimate that shall be provided pursuant to this section; and

(Omitted text is unaffected by this ordinance)

b) The commissioner is authorized to regulate, by rule, the amount of increase in fare rate from the regular fare rates rate-displayed in the licensee's Internet-enabled application or digital platform and the manner of fare amount calculation for providing a pre arranged transportation service; in addition, the commissioner is authorized to require licensees licensed under this chapter or Chapter 9-115 of this Code to comply with nationally recognized technical and technological standards applicable to fare amount calculation for providing a pre arranged transportation service, as determined by the commissioner.

(Omitted text is unaffected by this ordinance)

SECTION 6. Section 9-115-010 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

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9-115-010 Definitions.

For purposes of this chapter the following definitions shall apply:

(Omitted text is unaffected by this ordinance)

"Department" means the city's department of business affairs and consumer protection.

"Gratuity" means a verifiable sum presented by a passenger as a gift in recognition of some service provided to the passenger by the driver.

"Incentive" means a sum of money paid to a transportation network driver upon completion of a task, such as completing a certain number of trips, a certain number of consecutive trips, a trip subject to a price multiplier or variable pricing policy, or some other provision of transportation network service.

(Omitted text is unaffected by this ordinance)

"Transportation network vehicle" means any vehicle used to provide a transportation network service.

(Omitted text is unaffected by this ordinance)

SECTION 7. Section 9-115-160 of the Chicago Municipal Code is hereby amended by inserting the language underscored, as follows:

9-115-160 Transportation network driver - Intoxicating substance policy.

(a) In addition to the prohibitions set forth in section 9-115-180(c), any licensee shall include on its website, mobile application and riders' receipts, a notice or information on the licensee's zero-tolerance policy for intoxicating substances and the methods to report a transportation network driver whom the rider reasonably suspects was under the influence of

drugs or alcohol during the ride. The website and mobile application shall include a phone number or mobile application call function and e-mail address to report the zero-tolerance complaint. The website and mobile application shall also include the phone number and e-mail address of the Department's public passenger vehicle division. All procedures to report a zero-tolerance complaint, whether by phone, mobile application, or e-mail address, must clearly notify the rider that, pursuant to Section 1-21-010 of the Code, false claims may be punishable by a civil penalty of not less than \$500 and not more than \$1,000, litigation and collection costs and attorney's fees, and up to three times the amount of damages. Promptly after a zero-tolerance complaint is filed, the licensee shall suspend the transportation network driver for further investigation. In investigating a zero-tolerance complaint against a driver with a speech disability, the licensee shall factor the driver's speech disability in the investigation to inquire whether or not the complaint is based on an erroneous perception of the driver's speech disability. An investigation under this section must be completed, and a decision rendered, within 48 hours.

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b) Any person who knowingly makes a false zero-tolerance complaint shall be in violation of Chapter 1-21 of this Code.

c) A licensee that does not immediately suspend a driver after a zero-tolerance complaint, or does not investigate and render a decision regarding a zero-tolerance complaint within 48 hours, shall be in violation of this section.

d) Each licensee, shall permit a driver accused of violating the zero-tolerance policy to offer affirmative proof of their innocence as soon as reasonably practicable to expedite the investigation process, using a process approved by the Commissioner. Such process may include, permit the applicable driver to submit a negative drug test or other evidence that the allegations were false via the licensee's website or mobile application.

SECTION 8. Chapter 9-115 of the Municipal Code of Chicago is hereby amended by inserting new Section 9-115-175, as follows:

9-115-175 Contract required.

(a) Each agreement between a licensee and a transportation network driver must be written in clear and unambiguous language, be affirmatively accepted or signed by the transportation network driver, and shall include, at a minimum, the following terms:

(i1) any terms or conditions a transportation network driver must accept or agree to in order to receive a dispatch from a licensee:

(ii2) any terms or conditions a transportation network driver must accept or agree to in order to receive payment from a licensee or the entity designated by the licensee to process and disburse payments to such transportation network driver:

(iii3) any costs or fees a transportation network driver must pay a licensee:

(iv4) for each cost and fee that may be charged by the licensee: (A) an explanation of each such cost or fee in clear and unambiguous language; and (B) an explanation of the conditions that will result in the imposition of each such cost or fee in clear and unambiguous language;

(v5) an explanation of how the transportation network driver's compensation will be calculated, including but not limited to a percentage of fares paid by passengers that will be forwarded to the transportation network driver or the formula used by the licensee; and

(vi)(6) a statement of the transportation network driver's right to opt out of any applicable arbitration clause;
and

(7) a statement of the transportation network driver's rights under this chapter, including under Sections 9-115-182, 9-115-200, 9-115-201, 9-115-205, 9-115-206, 9-115-208, and 9-115-209.

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(b) Each licensee shall maintain for at least three years or for the duration of any claim, civil action, or investigation pending pursuant to this chapter, whichever is longer, each agreement required under this section. Each licensee shall provide each transportation network driver a copy of any applicable agreements between such transportation network driver and the licensee upon the transportation network driver's reasonable request.

SECTION 9. Chapter 9-115 of the Municipal Code of Chicago is hereby amended by inserting new Section 9-115-181, as follows:

9-115-181 Passenger verification.

A licensee, in compliance with applicable law, shall require each passenger to verify their identity on the licensee's internet-enabled application or digital platform prior to accepting a passenger's request for service, using an identity verification process approved by the Commissioner, after consultation with the Superintendent of Police. Examples of an identity verification process may include, but are not limited to, requiring profile photos for all passengers; multi-factor authentication of a passenger using the licensee's internet-enabled application or digital platform; requiring passengers to register with a government-issued form of identification; confirming whether the applicable method of payment is in the name of the requesting passenger; confirming the identity of any passenger whose request for service came from a third-party; a means to notify a passenger that their account may have been compromised; and a means to notify a transportation network driver if pre arranged transportation service is requested from an account that may have been compromised. Subject to applicable law, in the event that a transportation network driver is the victim of a crime while providing transportation network services for a licensee, it is the affirmative duty of such licensee to provide the applicable passenger verification to the police and to otherwise fully and truthfully cooperate in the investigation into such crime.

SECTION 10. Chapter 9-115 of the Municipal Code of Chicago is hereby amended by inserting new Section 9-115-182, as follows:

9-115-182 Data required to be sent to transportation network drivers.

(a) Within 24 hours of each trip completion, licensees shall transmit an electronic receipt to the transportation network driver that contains the following information for each unique trip, or portion of a unique trip:

(1) the origin and destination of the trip;

2) the date, total time, and total distance of the trip;

3) an itemization of the total fare paid by the passenger;

4) the rate or rates of pay, including but not limited to, the rate per minute, rate per mile, percentage of passenger fare, and any applicable price multiplier or variable pricing policy in effect for the trip;

- 5) tip compensation;
- 6) gross payment;
- LZ1 net payment after deductions, fees, tolls, surcharges, or other charges;
- 8) itemized deductions or fees, including anv toll, surcharge, commission, and other charges;and
- 9) anv other information that is material and necessary to effectuate the terms of this chapter.as determined by the Commissioner.

(b) On a weekly basis, the licensee shall provide written notice to each transportation network driver that contains the following information for all trips, or a portion of a trip, that occurred in the prior week:

- 1) the transportation network driver's total trip time and distance driven, including the time anddistance traveled from dispatch locations to passenger pickup locations;
- 2) the total amount of passenger fares;
- 3) the transportation network driver's total tip compensation;
- 4) the transportation network driver's gross pay, itemized by rate per minute, rate per mile, and anv other method used to calculate pay including, but not limited to. base pay, percentage of passenger fare, or anv applicable price multiplier or variable pricing policy in effect for the trip;
- 5) the transportation network driver's net payment after deductions, fees, tolls, surcharges, orother charges;
- 7) the itemized deductions or fees, including all tolls, surcharges, commissions, and othercharges. from the transportation network driver's payment;
- 8) the total time the transportation network driver was logged into the driver platform
- 9) anv other information that is material and necessary to effectuate the terms of this chapter.as determined by the Commissioner.

SECTION 11. Section 9-115-200 ofthe Municipal Code of Chicago is hereby amended by deleting the language struck through, and by inserting the language underscored, as follows:

9-115-200 Service charges and fare rates.

(a) Licensees may charge compensation for service based on distance traveled or time elapsed during service, or based on distance traveled and time elapsed during service, or a flat prearranged fare, or a suggested donation. The Commissioner shall establish bv rule requirements to: (i) mandate that each licensee notify the Commissioner of the regular fare rates currently in

use by the licensee for each vehicle class and type of service offered by the licensee, and file with the Commissioner anv

change in a regular fare rates prior to utilizing anv such rate: (ii) prohibit a licensee from knowingly making anv false, misleading or fraudulent statement of material fact in their notice the Commissioner of the regular fare rate currently in use, with licensees in violation subject to Chapter 1-21; (iii) prohibit a licensee from increasing their regular fare rates on file with the Commissioner more than once a month; Licensees may still implement a dynamic pricing model whereby such regular fare rate is increased or decreased based on the demand for licensee's services and the availability of transportation network drivers, subject to the provisions of this section. Nothing provided in this section or the rules adopted by the Commissioner shall prohibit a licensee from: (i) charging a customer a cleaning fee or other charge for additional services; or (ii) implementing anv other passenger promotion, approved by the Commissioner, whereby such regular fare rate is reduced for a limited time. Gratuity offered by a passenger to a driver shall not be included in the regular fare rate.

b) Any licensee shall display the licensee's fare rates fate, including any charge or fee associated with the fafe-fares. on such licensee's website and Internet-enabled application or digital platform used by the licensee to connect drivers and passengers. In addition, any licensee shall display a button for displaying a fare quote for any requested trip on the licensee's Internet enabled application or digital platform in the same size and graphics as the licensee's trip request button.

c) Except as otherwise provided in Section 9-114-265, it is unlawful for a licensee or transportation network driver to charge passengers a fare greater than the fare rate shown on the licensee's Internet-enabled application or digital platform.

d) Within 24 hours following the completion of a trip, a licensee shall transmit an electronic receipt to the passenger that lists:

- 1) the origin and destination of the trip;
- 2) the date, total time^and total distance of the trip; and
- 3) an itemization of the total fare paid;.
- 4) the transportation network driver's first name;
- 5) a separate itemization of the compensation paid to the transportation network driver with passenaer-paid tips; and
- 6) anv other information that is material and necessary to effectuate the terms ofthis chapter, as determined by the Commissioner.

SECTION 12. Chapter 9-115 of the Municipal Code of Chicago is hereby amended by inserting new Section 9-115-201, as follows:

9-115-201 Transportation Network Provider Commission Cap.

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It shall be unlawful for anv licensee to:

- 1) remit to the transportation network driver anv less than 80% of compensation for servicecharged to the customer;
or
- 2) retain any, or anv portion of anv, incentive or. gratuity earned, or fee paid by a passenger forcanceled an accepted ride.

SECTION 13. Chapter 9-115 of the Municipal Code of Chicago is hereby amended by inserting new Section 9-115-205, as follows: 9-115-205 Minimum driver compensation.

a) Minimum Driver Compensation. Subject to subsection (f) of this section, for each trip dispatched by the licensee, a licensee must pay transportation network drivers, at a minimum, the greater of: (1) the minimum per minute amount under subsection (b) of this section plus the minimum per mile amount under subsection (c) of this section; or (2) the minimum per trip amount under subsection (d) of this section.

b) Per Minute Amount. For each minute a transportation network driver is transporting a passenger on each trip, a licensee shall compensate the transportation network driver at least the equivalent of the per minute rate; provided, however, for all trips that begin within the corporate boundaries of the City but end outside of the City, the per minute rate shall be the greater of 1.5 times the regular per minute rate or a higher rate (if accepted in a higher surge area) for each minute a transportation network driver is transporting a passenger outside of the corporate boundaries of the City. The initial per minute rate shall be \$0.30. Beginning on July 1, 2022, and on every July 1 thereafter, the per minute rate contained in this section will be increased in proportion to the increase, if any, in the Consumer Price Index (CPI). The Commissioner shall post the CPI-adjusted per mile and per minute rates on the Department's website on or before June 1 of each year. Any ordinance changing the per minute rate shall be codified as an amendment to this section.

c) Per Mile Amount. For each mile driven by a transportation network driver while transporting a passenger on a trip, a licensee shall compensate the transportation network driver at least the equivalent of the base rate of \$2.00 multiplied by the per mile rate; provided however, for all trips that begin within the corporate boundaries of the City but end outside of the City, the per mile rate shall be the greater of 1.5 times the regular per minute rate or a higher rate (if accepted in a higher surge area) for each minute a transportation network driver is transporting a passenger outside of the corporate boundaries of the City. The initial per mile rate shall be \$1.20. Beginning on July 1, 2022, and on every July 1 thereafter, the per mile rate contained in this section will be increased in proportion to the increase, if any, in the CPI. The Commissioner shall post the CPI-adjusted per mile and per minute rates on the Department's website on or before June 1 of each year. Any ordinance changing the per mile rate shall be codified as an amendment to this section.

d) Minimum Per Trip Amount. For each dispatched trip, a licensee shall compensate the transportation network driver a minimum per trip amount of \$5.

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f) Application of this Section. A transportation network driver is covered by this section if the transportation network driver provides transportation network services within the corporate boundaries of the City for a licensee. For a trip with a passenger pick-up location within the corporate boundaries of the City, all minimum compensation requirements under this section apply, regardless of the passenger drop-off location. For a trip with a passenger pick-up location outside the corporate boundaries of the City, minimum compensation under this section is due only for the portion of the trip that occurs within the City.

g) Hourly Payment. If a licensee pays a transportation network provider on an hourly basis, the payment the transportation network driver receives for each hour the transportation network driver accepts dispatches from the licensee must be at least the sum of the per mile amount for all miles the transportation network driver transported passengers during such hour, plus the per minute amount for all minutes the transportation network provider spent transporting passengers during such hour.

h) Remittance and Withholdings. A licensee must remit all compensation to the transportation network driver. A licensee may only deduct costs and fees from driver compensation if such costs and fees are specified in the agreement

between the licensee and the applicable transportation network driver as required under Section 9-115-175, and such agreement further provides that such costs and fees may be withheld from compensation. Transportation network drivers must be paid compensation for every completed trip within one week of the trip's completion.

(i) Gratuities, Incentives, and Cancellation Fees. A licensee shall pay to its transportation network drivers all gratuities, incentives, and fees paid by a passenger for canceling an accepted ride in full. Gratuities and incentives paid to a transportation network driver are in addition to, and may not be counted towards, the transportation network driver's minimum compensation required under this section.

(TJ Application to Collective Bargaining Agreements. Nothing in this chapter shall be deemed to interfere with, impede, or in any way diminish the right of transportation network drivers to bargain collectively with licensees through representatives of their own choosing in order to establish wages or other conditions of work in excess of the applicable minimum standards of the provisions of this chapter.

(k) Encouragement of More Generous Policies. Nothing in this chapter shall be construed to prohibit or discourage a licensee from the adoption or retention of additional protections or policies that are more generous than the protections and policies required by this chapter. Nothing in this chapter shall be construed as diminishing the obligation of a licensee to comply with any contract or other agreement providing more generous protections to transportation network drivers than the protections required by this chapter.

(l) Retaliatory Conduct Prohibited. It shall be unlawful for any licensee to: (i) charge transportation network drivers fees, surcharges, or other amounts in order to circumvent the driver compensation requirements of this chapter; or (ii) deactivate or otherwise temporarily or permanently suspend transportation network drivers from their ability to provide services through the licensee's internet enabled application or digital platform in order to manipulate pay in any way.

SECTION 14. Chapter 9-115 of the Municipal Code of Chicago is hereby amended by inserting new Section 9-115-206, as follows:

9-115-206 Private cause of action.

If any transportation network driver is paid by a licensee any amount less than the minimum compensation to which they are entitled under Section 9-115-205, the transportation network driver may recover in a civil action three times the amount of any such underpayment, together with costs and such reasonable attorney's fees as the court allows. An agreement by the transportation network driver to receive less than the minimum compensation required under this chapter, except for such an agreement that is part of a collective bargaining agreement, is no defense to such action.

If any licensee retains a commission in excess of the amount under Section 9-115-201, the affected transportation network driver may recover in a civil action three times the amount of any such wrongly retained commission, together with costs and such reasonable attorney's fees as the court allows. An agreement by the transportation network driver agreeing to a higher commission for a licensee is no defense to such action.

SECTION 15. Chapter 9-115 of the Municipal Code of Chicago is hereby amended by inserting new Section 9-115-207, as follows:

9-115-207 Non-exclusive remedy. The remedies, fines, and procedures provided under this chapter are cumulative and

are not intended to be exclusive of any other available remedies, penalties, and procedures established by law that may be pursued to address violations of this chapter.

SECTION 16. Chapter 9-115 of the Municipal Code of Chicago is hereby amended by inserting new Section 9-115-208, as follows:

9-115-208 Transportation network drivers - suspension appeals.

(a) Unwarranted suspension. No transportation network provider shall subject a transportation network driver within such transportation provider's network to unwarranted temporary or permanent suspension from their ability to provide services through the licensee's Internet-enabled application or digital platform as defined by rules duly promulgated by the Commissioner. This includes suspensions applied while background checks subsequent to the initial required background check are being performed. Unless a subsequent background check results in a violation previously unknown to the licensee, a suspension of the transportation network driver in order to perform said background check shall be considered unwarranted. The initial background check necessary to be approved as a transportation network provider shall not be considered unwarranted under this section. A suspension for the duration of the 48 hour investigation period established by Section 9-115-160 shall not be considered an unwarranted suspension, unless the transportation network provider fails to afford a transportation network driver a reasonable opportunity to present evidence of their innocence to expedite the investigation and the driver is subsequently found to not be in violation of the zero-tolerance

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policy, in which case the suspension may be deemed unwarranted as it relates to the time after which the driver could have reasonably proved their innocence.

b) Suspensions - Notice. For all suspensions resulting from a violation of this Chapter or 625 ILCS 57, the Transportation Network Providers Act, the transportation network provider shall provide the transportation network driver with seven days' written notice of the impending suspension, except for suspensions as a result of a potential violation of the zero-tolerance policy, as required under Section 9-115-160, which require notice of suspension as soon as reasonably practicable. The notice shall include: (i) a written statement of the reasons for the suspension, with citations to the applicable Code or statute section that is alleged to be violated for each violation listed; (ii) the effective date of the suspension; and (iii) notice, in a form and manner provided by the Commissioner, of the transportation network driver's right to appeal the suspension under this section.

Upon suspension, a transportation network provider shall provide such transportation network driver with a written statement of the reasons for, and the effective date of, such suspension. Such written statement shall also include notice, in a form and manner prescribed by the Commissioner, of the transportation network driver's right to challenge the suspension under this section.

c) Transportation network driver right to appeal. A transportation network driver shall have the right to appeal all suspensions.

d) Special provision for drivers deactivated prior to the passing of this ordinance. Due to the high number of public chauffeurs who have been deactivated with no due process, all workers deactivated since December 31st, 2019 shall be notified by licensees of their right to appeal and challenge their suspension within 30 days of the passing of this ordinance.

e) Appeals process.

(i) The Commissioner shall promulgate rules and regulations regarding warranted and unwarranted suspensions based on the eligibility of transportation network drivers under applicable law. In consultation with the Office of Labor

Standards, the Commissioner shall promulgate rules and regulations regarding the transportation network driver appeals process, including, at a minimum rules establishing procedures for filing appeals and establishing fees.

(ji) Within 14 days of receiving notice of a suspension from a transportation network provider, a transportation network driver may file an appeal for an adjudication proceeding with the Office of Labor Standards by: (A) filing a copy of the notice of suspension with the Office of Labor Standards; and (B) properly serving the appeal on the transportation network provider. If a driver fails to request an appeal within the prescribed time, or requests an appeal but fails to appear at such hearing, the appeal shall be deemed denied.

iii) A transportation network driver has the right to represent themselves during any proceeding regarding a suspension appeal, or may be represented by a representative.

iv) In determining whether a suspension is unwarranted, the Office of Labor Standards shall, at a minimum, consider the following factors:

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A) Whether the transportation network driver received fair notice of the transportation network provider's applicable policy or rule, including any consequences for violation;

B) The reasonableness of such rule or policy, including whether such rule or policy is reasonably related to the transportation network provider's safe and efficient operations;

C) Whether the transportation network provider conducted a fair, objective, and unbiased investigation prior to suspending the transportation network driver;

(D) Whether the transportation network provider is able to establish that the violation occurred by a preponderance of the evidence;

E) Whether the applicable rule or policy and any related penalties are consistently applied by the transportation network provider;

F) Whether penalty is proportional and reasonably related to the alleged violation;

G) Whether any mitigating factors were considered by the transportation network provider; and

H) Whether the suspension is discriminatory, or otherwise against public policy.

dv) Upon a decision concluding that a suspension was unwarranted, the Office of Labor Standards may order the transportation network provider to provide appropriate relief, including:

A) the payment of unpaid compensation, lost wages, and liquidated damages;

B) interest on the unpaid compensation, lost wages, and liquidated damages from the date the payment was due until the date of payment; and

C) reactivating the transportation network driver's ability to provide services through the licensee's Internet-enabled application or digital platform.

(v) Nothing in this section shall be construed as restricting a transportation network driver's right to pursue any other remedy at law or equity.

SECTION 17. Chapter 9-115 of the Municipal Code of Chicago is hereby amended by inserting new Section 9-115-209, as follows:

9-115-209 Retaliation prohibited. It shall be unlawful for any licensee to: (i) interfere with, restrain, deny, or attempt to deny the exercise by a transportation network driver of any right protected under this chapter; or (ii) discriminate in any manner or take any adverse action against any transportation network driver in retaliation for exercising any right under this chapter, including,

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but not limited to. disclosing, reporting, testifying, or making a good faith, but mistaken allegation about any violation of this chapter or regulations promulgated hereunder. For purposes of this section, prohibited adverse actions include, but are not limited to. reducing the rates of compensation to the transportation network driver; garnishing gratuities, incentives, or fees paid by a passenger for cancelling an accepted ride; temporarily or permanently denying or limiting access to work, incentives, or bonuses; offering less desirable work; demoting; terminating; deactivating; changing a transportation network driver's status to provide transportation network services from eligible to ineligible; putting a transportation network driver on hold status; failing to rehire a transportation network driver after a seasonal interruption of work; denying authorization to provide transportation network services; threatening, penalizing; engaging in unfair immigration-related practices; filing a false report with a government agency; otherwise discriminating against any person for any reason prohibited by this section; or any other action that would dissuade a reasonable transportation network driver from exercising their rights under this chapter. Such adverse actions may involve any aspect of transportation network services, including compensation, work hours, volume and frequency of trips assigned, responsibilities, or other material change in the ability of a transportation network driver to perform transportation network services. It shall be a rebuttable presumption of retaliation if the licensee or any other person takes an adverse action against a transportation network driver within 90 calendar days after such transportation network driver's exercise of a right under this chapter. A licensee may rebut such presumption with clear and convincing evidence that the adverse action was taken for a permissible purpose.

SECTION 18. Section 9-115-230 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

9-115-230 Violation - Penalty.

(a) Any licensee who violates this chapter or any rule promulgated hereunder shall be subject to a fine of not less than \$500.00 and not more than \$10,000.00 for each such violation. Each day that any violation shall continue shall be deemed a separate and distinct offense. Any licensee who violates the commission cap established pursuant to Section 9-115-200(a) shall be subject

to: (i) a fine of \$100 for each fare charged in violation of Section 9-115-200; and (ii) suspension, rescission, non-renewal, or revocation of their license if the licensee violates Section 9-115-200(a) on three separate days within any 12-month period.

SECTION 19. Chapter 4 of the Municipal Code of Chicago is hereby amended by adding a new section, Section 4-395, entitled the "Excluded Worker Safety Committee", as follows:

4-395 Excluded Worker Safety Committee

For the purposes of this section, the following terms shall have the following meanings: A. (a) "Employer" shall mean any person, entity, business, corporation, partnership, limited liability

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company, or an association employing at least ten employees, including licensees, end-users or hiring entities.') The term shall not include the state, any political subdivision of the state, a public authority, or any other governmental agency or instrumentality.

An excluded worker shall be defined as: 1) excluded from coverage under the National Labor Relations Act are public-sector employees (employees of state, federal and local governments and their subdivisions), agricultural and domestic workers, independent contractors, workers employed by a parent or spouse, employees of air and rail carriers covered by the Railway Labor Act, and supervisors (although supervisors that have been discriminated against for refusing to violate the NLRA may be covered) and 2) Those not covered by the Occupational Safety and Health Act including: self-employed workers, immediate family members of farm employers, and workers whose hazards are regulated by another federal agency (for example, the Mine Safety and Health Administration, the Department of Energy, Federal Aviation Administration, or Coast Guard).

The City of Chicago Office of Labor Standards and the Chicago Department of Public Health shall create an Excluded Worker Safety Committee.

The Excluded Worker Safety Committee's jurisdiction shall be the City of Chicago. The purpose of the city-wide excluded worker safety committee shall be to monitor and report on the wages, benefits, working conditions and health and safety of workers not covered by the NLRA or OSHA and to enforce and to promulgate rules, regulations, and legislation to improve the wages, benefits, working conditions and health and safety of excluded workers.

The Excluded Worker Safety Committee shall

- Educate workers and employers on labor law and occupational safety and health
- Support workers in identifying and addressing potential labor law and health and safety violations at worksites
- Support workers in implementing peer-to-peer education on labor law and occupational safety and health
- Support workers in reporting potential labor law and safety and health violations ACTIVITIES

I. Participate in meetings and convenings with Public Health and Office of Labor Standards and meetings of the Excluded Worker Safety Committee.

II. Complete Training and Certification in labor and occupational safety and health with Professional Training Organization. A Professional Training Organization shall be defined as a labor union, worker center, a university-affiliated labor education program, or non-profit organization with special expertise in labor law and occupational safety and health.

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III. Report on the wages, benefits, working conditions, and health and safety of excluded workers across industries. Review complaints and reported violations of labor law and occupational safety and health.

III. Conduct outreach and engagement with workers at businesses. Contact workers including but not limited to the following ways:

f. Consult with Public Health and Department of Labor and Office of Labor Standards regarding violations and complaints filed by workers.

1L. Get contact information from agencies for workers who have reached out to the Department with complaints or reporting violations (and who have given such agencies permission to share their information)

L. Convey public health and programmatic information to workers, including but not limited to:

i. Content of Health Officer Orders (HOP) and importance of implementing all HOOs at the worksite

ii. Common violations or hazards

iii. Best practices for how workers may approach management on how to improve compliance with HOOs

iv. Information about anti-retaliation provisions of the ordinance establishing the EWSC

v. Practical experience and skills in discussing HOOs with their peers

vi. Best practices in initiating peer-to-peer training programs in a Workplace

vii. Legal issues and concerns related to the HOOs

viii. Education about infectious disease vaccination, and Information about the importance of getting vaccinated against COVID-19

c. Create and translate outreach materials

L. With support provided from the Department of Public Health and Department of Labor and the Office of Labor Standards, develop and translate outreach materials for workers

d. Develop and implement a social media or other relevant awareness strategy:

L. Using culturally relevant and appropriate platforms, develop a strategy to educate workers in relevant communities and sectors about the labor law, occupational safety and health and HOOs

IV. Conduct outreach and engagement with employers at prioritized businesses

a. Provide education and information for employers about the need to implement HOOs at the worksite

b. Provide information about anti-retaliation language in the ordinance

c. Provide informational materials about resources and services available to

support business owners from government agencies, nonprofit and private entities

VI. Convene off-site meetings with workers

a. Train workers in-depth on HOOs

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b. Identify most important opportunities for improving compliance with HOOs overshoot and long term

c. Develop strategy and plan for how to implement HOOs at worksite

d. Train workers in how to conduct peer-to-peer education with other workers, to promote awareness of HOOs and labor law and occupational safety and health

e. Discuss plan for how to engage management about HOP implementation plan, including draft agendas and talking points

f. Provide ongoing technical assistance to workers to identify barriers, challenges and solutions for long term peer-to-peer education
The EWSC shall be composed of 15 members, each member serving for 18 month terms and after the first EWSC is established and selected, the terms of the members of the EWSC shall be staggered. Pnlv workers actively employed as excluded workers shall be eligible to serve on the EWSC.

Selection of members of the Excluded Worker Safety Committee (EWSC). Members of the Excluded Worker Safety Committee shall be chosen by a lottery conducted by the directors of the Office of Labor Standards and in the presence of all designated PTPs. The PTPs shall nominate collectively 45 candidates to be placed in the lottery for the establishment of the 1st EWSC. Thereafter the EWSC members can also nominate candidates for the lottery.

Members of the EWSC shall be compensated by stipend for their service on the EWSC at the rate of \$30 a hour, not exceeding 40 hours per week, adjusting with inflation automatically thereafter. Members of the EWSC shall document the hours of work performed in service to the committee.

Prohibition of retaliation. Retaliation against workers participating in the EWSC is expressly prohibited. Retaliation shall be defined as firing or laying off, reducing hours, removal from/impeding access to the digital platforms, or lowering wages directly or by limiting access to employment through digital platforms or other methods of discipline in the structure of employment including but not limited to:

- Demoting
 - » Denying overtime or promotion
- Disciplining
- Denying benefits
- Failing to hire or rehire
- Intimidation
- Making threats
- Blacklisting (e.g., notifying other potential employers that an applicant should not be hired or refusing to consider applicants for employment who have reported concerns to previous employers)
- Reassignment to a less desirable position or actions affecting prospects for promotion (such as excluding an employee from training meetings)
- More subtle actions, such as isolating, ostracizing, mocking, or falsely accusing the employee of poor performance

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(Omitted text is unaffected by this ordinance) SECTION 20. This ordinance shall take effect 60

days after passage and approval

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RODERICK T. SAWYER Alderperson - 6th Ward

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CITY OF CHICAGO

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OFFICE OF THE CITY CLERK ANNA
M. VALENCIA

Chicago City Council Co-Sponsor Form

02022-624

Amendment of Municipal Code Titles 2, 3, 4, 8 and 9 by modifying various sections and adding new sections regarding livign wage and safety regulations for transportation network drivers

Adding Co-Sponsor(s)

Please ADD Co-Sponsor(s) Shown Below-(Principal Sponsor's Consent Required)

Alderman

Alderman

Principal Sponsor:.

(Signature)

*Removing Co-Sponsor(s) Please REMOVE Co-Sponsor(s) Below - (Principal Sponsor's
Consent NOT Required)*

(\ I Ward)

(Signature)

Alderman

(Signature)

Date Filed:

Final Copies To Be Filed With: • Chairman of Committee to which legislation was referred
• City Clerk

121 NORTH LASALLE STREET, ROOM 107, CHICAGO. ILLINOIS 60602

CITY OF CHICAGO

*

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Principal Sponsor:.

(Signature)

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