



Tom Chamberlain, President
Barbara Byrd, Secretary-Treasurer

(503) 232 - 1195
3645 SE 32nd Ave
Portland, OR 97202
oraflcio.org

TO: Mayor Stromberg
Members of the Ashland City Council

CC: Assistant City Attorney Katrina L. Brown
City Attorney David H. Lohman

FR: Evan Lasley, Oregon AFL-CIO

RE: **Amendment to Ordinance Bill No. 3152**

My name is Evan Lasley, Regional Staff of the Oregon AFL-CIO. I'm contacting you today representing the over 300,000 working people of our state and affiliate local unions.

The City of Ashland is considering code changes to regulate Transportation Network Companies (TNCs) like Uber and Lyft. The State Federation of Labor has been the long-term advocate for all workers in Oregon's economy and with this key role in mind, our organization has significant concerns about the "gig economy".

In the last 20 years, we have seen a change in the employment model where companies are frequently classifying workers as independent contractors and insulating themselves against liabilities and employment taxes. This shift to "gig" jobs has left many workers in our community without basic protections. We continue to be ready and willing to help local authorities grapple with this evolving issue.

We know that there are significant concerns from drivers and the community about fairness as it relates to every component of our transportation system, especially TNCs.

Last month Oregon AFL-CIO President Tom Chamberlain mailed you a packet to provide you with background information on the influence of TNCs such as Uber and Lyft in politics — as well as the impact that the so-called 'gig economy' is having on the lives of working people.

I have included those resources at the end of this communique should you be interested in reviewing them prior to the upcoming May 1st City Council meeting.

The Oregon AFL-CIO remains committed to being a voice for all workers, including Transportation Network Company drivers as well as traditional transportation workers.

That is why we are respectfully calling upon you to honor the Council values of participatory government and an economy that works for all through implementing a Transportation Industry Board Policy for the City of Ashland (see attached) alongside changes in regulation which would allow companies like Uber and Lyft to operate within Ashland city limits.

The Board would serve to examine conditions for drivers and riders in the transportation industry, and include representatives from populations reliant on public transportation such as senior citizens and people with disabilities; drivers from TNC and taxi services; and representatives from TNC and taxi management.

Their charge of duties would include:

- Investigating conditions and practices in the TNC industry and advising the Council on standards that ensure safe, reliable transportation by TNCs within the city, with emphasis on consumer and driver protections and establishing fair rates and driver compensation;
- Considering the effect of TNCs on the transportation system overall, including the financial and operational viability of the public transit system, and on transportation options for people of color, people with disabilities, and other people with equity concerns;
- Conducting public hearings and submitting to the Council a report, including its recommendations as to policy changes to carry out the purposes of this Act.
- Reviewing disputes between drivers and TNCs or consumers and TNCs regarding compliance with standards applicable to the industry that are brought to its attention, either through direct communications to the Board chair or at public hearing.

Drivers deserve to have a voice at the table. TNCs like Uber have shown us over and over again that they will blatantly disregard local authority to turn an enormous profit on the backs of working people. We advise you to learn from the experiences of other cities all across the world and consider alternative models for addressing historic inequities in the transportation system.

We ask that you do not move forward with this Council Bill until there is some structure in place to allow TNC drivers to have a voice in the industry here in Ashland.

If you have any questions about our work on policies related to TNCs, do not hesitate to contact me at (541) 890-7545 or evan@orafcio.org.

Further Resources

Uber State Interference: How TNCs Buy, Bully, And Bamboozle Their Way To Deregulation National Employment Law Project, January 18, 2018

- Recommendations to legislators from this comprehensive report include:
 - State legislators should reject efforts to preempt local authority with respect to TNCs, and instead delegate regulation of TNCs to local transportation authorities, just as many states have done for taxi regulation. Alternatively, they should work closely with cities to develop policies that establish a statewide floor, allowing cities flexibility to customize TNC regulations. They should reverse laws that strip drivers of their rights as employees.
 - Local legislators should require TNCs to comply with local labor standards and be alert to any attempts to define drivers' employment relationship as independent contractors in city legislation and rulemaking; require TNCs to share, with appropriate privacy safeguards, the data that communities need to ensure that TNCs are strengthening rather than undermining mobility and transportation; and learn about and support innovative ways to ensure for-hire drivers can form alternative business models, like cooperatives and nonprofit organizations.

A Drivers' Suicide Reveals the Dark Side of the Gig Economy New York Times, February 6, 2019

- Following the suicide of a taxi driver in New York City, this article examines the economic hardships of the 'gig economy.' I chose to include this article as part of this packet because it shines a light on how Transportation Network Companies' political influence leaves traditional transportation workers behind economically.

The Economics of Ride-Hailing: Driver Revenue, Expenses and Taxes MIT Center for Energy and Environmental Policy Research, February 2018

- Provides a detailed analysis of Uber and Lyft ride-hailing driver economics by pairing results from a survey of over 1100 drivers with detailed vehicle cost information. Results show that per hour worked, median profit from driving is \$3.37/hour before taxes, and 74% of drivers earn less than the minimum wage in their state.
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PROPOSED CITY OF ASHLAND TRANSPORTATION INDUSTRY BOARD POLICY

Prepared by National Employment Law Project & The Oregon AFL-CIO

DEFINITIONS

As used in this Chapter, unless the context requires otherwise:

1. **Board** means the transportation network industry board established in this chapter;
2. **Council** means the City of Ashland City Council;
3. **Mayor** means the City of Ashland Mayor;
4. **Transportation Network Company (TNC)** means any entity or organization, whether a corporation, partnership, or sole proprietor, that connects passengers with affiliated TNC drivers and TNC vehicles through an Internet-based digital or software platform/application operated by the TNC.
5. **Transportation Network Company (TNC) Driver** means any individual operating a PFHT vehicle who connects with passengers through an Internet-based digital or software platform/application operated by an affiliated TNC.

TRANSPORTATION NETWORK INDUSTRY BOARD – STAFFING AND MEMBERSHIP

There is established in the City of Ashland a transportation network industry board.

The Board shall be made up of seven members, to be appointed by the Council and Mayor. These shall be two representatives of Transportation Network Companies, three Transportation Network Company drivers or their representatives, one public member representing people with disabilities and one public member representing Ashland communities traditionally underserved by public transportation;

Board members' terms shall be staggered, so that one TNC representative, two drivers and one public representative shall expire on [date that makes a three-year term], and one TNC representative, one driver and one public member shall expire on [two-year term] The Council and Mayor must annually select one member as Chair. Vacancies shall be filled by appointment for the unexpired terms.

The members of the board shall not receive a salary or other compensation but shall be paid actual and necessary traveling expenses while engaged in the performance of their duties.

POWERS AND DUTIES OF THE BOARD.

1. The Board shall be charged with investigating conditions and practices in the TNC industry and advising the Council on standards that ensure safe, reliable transportation by TNCs within the city, with emphasis on consumer and driver protections and establishing fair rates and driver compensation. The Board will also investigate and consider the effect of TNCs on the transportation system overall, including the financial and operational viability of the public transit system, and on transportation options for people of color, people with disabilities, and other people with equity concerns;

Within 60 days of the appointment of the board, it shall a) conduct public hearings and b) submit to the Council a report, including its recommendations as to policy changes to carry out the purposes of this Act. The report and recommendations may be finalized only after a vote of all the sitting members of the Board, along with an accounting of the yea or nay votes. The report and recommendations shall be submitted to the Council Staff, who will transmit them to the City Council and Mayor.

City of Ashland staff shall draft legislative language from the recommendations, and within 60 days of receiving the report and language, the City Council shall consider proposed legislation,

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2. The Board is also empowered to resolve disputes between drivers and TNCs or consumers and TNCs regarding compliance with standards applicable to the industry that are brought to its attention, either through direct communications to the Board chair or at public hearing.

Whenever a dispute is brought to the attention of the Board,

Disputes must be resolved, through a process of binding mediation, within 8 weeks of formal presentation to the Board.

3. In carrying out its work under paragraphs 1 and 2, the Board shall have power to administer oaths and to require by subpoena the attendance and testimony of witnesses, and the production of all books, records, data, algorithms, and other evidence relative to any matters under inquiry. Such subpoenas shall be signed and issued by the chair of the TNC Board with the assistance of the City Attorney and shall be served and have the same effect as if issued out of the district court. The Board shall have power to cause depositions of witnesses residing within or without the state to be taken in the manner prescribed for like depositions in civil actions in the district court. The Board shall not be bound by common law or statutory rules of procedure or evidence.
4. The Board shall be staffed by City Staff already assigned to TNC/PPV, convene its meetings and bring pertinent research, and industry experts before the Board.
5. After the Board has issued its initial report, it shall meet quarterly, or by call of the chair in response to disputes. The Board shall devote such time as it deems appropriate, at each quarterly meeting, to public hearing. Any member of the public may bring issues regarding driver standards before the Council and Mayor, which must resolve those issues within 12 weeks of formal presentation to the Board.