

*Testimony to House Select Committee on Fair Growth
From Peter Kuel, President, Drivers Union
Submitted Friday, August 5, 2022*

History and Context

I speak on behalf of the Drivers Union, the nation's largest organization supporting the rights of TNC or "gig-work" drivers.

As the Drivers Union exists today, it is the result of ten years of organizing work and power building within the driver community, supported and enabled by the local labor movement. When Teamsters 117 first engaged with the drivers, we, as drivers, were clear about our goals. We wanted a voice in our work. We wanted the power to be able to challenge unfair deactivations in which TNCs – Transportation Network Companies, like Uber and Lyft - would turn off our access to the platforms, often with no notice or explanation. We wanted to be able to be paid fairly for the work that we do. In brief, we wanted to be treated with respect and dignity.

Outside of the driver community, the question of our classification as independent contractors is often the most talked about issue surrounding driver rights. For most drivers, classification was never our motivating issue and paled when compared to our other priorities; fair pay and labor standards regardless of how we're classified as employees. America's legacy of institutional racism has long determined who receives the benefits extended to employees and who does not. This legacy can be seen today; 91% of drivers who come to the Drivers Union for support are Black. But we believe that removing arbitrary distinctions around which class of worker deserves protection is more important than fighting over how different kinds of work are classified.

Even if we had been classified as employees, the National Labor Relations Act is woefully inadequate as it applies to our work. The drafters of the law and its subsequent amendments never contemplated decentralized work that stretches across multiple platforms. Drivers might start their day working for one company, then move to others throughout the day. We are not tethered to any one company.

Our first policy win in the City of Seattle was Collective Bargaining legislation that would have given us the authority to negotiate with the platforms. This legislation was met with powerful resistance from TNCs, who saw it as a threat to their business model. We viewed it as an enhancement. The platforms challenged it in court; eventually the City and the Chamber of Commerce agreed to stop challenging each other and the legislation was never implemented. Our problems still existed, and so with the help of the Teamsters we looked for other avenues to make our voices heard.

Winning Concrete Improvements in Drivers' Lives

We then turned to the City Council and the Mayor and proposed an alternative path for driver voices to be heard. We worked to set the minimum time and mileage rate to ensure we would earn the equivalent of the Seattle minimum wage after expenses, with an annual cost of living adjustments. Through the proposed City legislation, we would also establish a Driver Resource Center that would give drivers a pathway to challenge deactivations.

The Resource Center is funded by a fee collected by the City on each ride. This gives us a process where we can be represented in the deactivation appeals, and if necessary, go to arbitration to resolve issues. It further allowed us to provide other training and support opportunities to the driver community, such as know your rights trainings, pandemic-related PPE and vaccinations, tools to make sure that we are being paid accurately, and a place for the driver community to gather. The results have been impressive. We are now the highest paid drivers in the country. The companies can no longer cut our compensation at will.

The Drivers Union has been in existence for only 13 months. We now have a staff of 12, including outreach staff and a legal department. In just one year we have provided know-your-rights education to more than 17,000 drivers. Nearly 5,000 drivers have come to Drivers Union for support services and nearly 1,000 have sought help with unfair deactivation. Nearly 300 drivers have gotten their jobs back with Drivers Union support, and hundreds more are being represented by Drivers Union in arbitration or other appeals proceedings. Critically, Drivers Union is able to provide these services in a culturally and linguistically competent manner. Our staff – many of whom are former drivers - speak 13 different languages, and through interpretation services we have provided in-language support in over 40 languages.

During the pandemic, with support of the local labor movement, we have been able to access State unemployment benefits. We have also been able to access paid sick leave in Seattle, due to a new law, passed with our support, expanding benefits for gig workers in the city. This is especially important as the pandemic continues; we have been providing essential transportation for so many of our front-line workers in hospitals and elsewhere. During the height of the pandemic, when our business declined by 90%, these rights were the only things that kept our families housed and fed.

Expanding Beyond Seattle

The successful program that we worked so hard to achieve only applied to drivers whose trips originated or ended in the City of Seattle. Drivers in the rest of the State were looking at what was happening in Seattle and wanted to implement the same rights we won here. We then started to work with our elected representatives in the State Legislature to support legislation to bring these rights and benefits to our fellow drivers across the State. We also met with the companies to find alignment, where we could, to build legislation that would benefit all parties.

HB 2076 was passed in the Washington State Legislature's last legislative session and is scheduled to go into effect in January, 2023. The law provides for many of the same benefits as the Seattle legislation, in some cases surpassing its protections. A Driver Resource Center is also established and funded the same way as it is in Seattle. Under HB 2076, drivers will be able to access the portable benefits that comprise the social safety net that workers classified as employees enjoy. These benefits include Workers Compensation, Unemployment Insurance, Paid Family and Medical leave, and Paid Sick Leave which will be funded by the multiple TNCs covered under the law. Drivers around the State recognize that the most effective way to stop the race to the bottom in this industry is to create uniform standards for drivers; that is what this legislation will accomplish.

HB 2076 also provides benefits for the companies. By the very nature of the work, the companies are in constant competition for drivers to work on their platforms. By creating a uniform compensation and benefit system the companies now compete for drivers based on other incentives, such as fair treatment. Deactivation protection gives good drivers a better opportunity to remain connected to the work, safer in the knowledge that they will have fair compensation, a suite of portable benefits and representation in the face of arbitrary discipline often meted out by an algorithm.

Over the last ten years, the drivers, community and immigrant organizations, the local labor movement and other social justice and environmental organizations have supported this effort to bring justice to these workers. But it is drivers themselves who have worked hard to build the solidarity and power necessary to achieve their goals.