

# Seattle City Council Enacts Ordinance Giving Drivers Right to Collectively Bargain, Legal Challenges Expected

Article By:

April Upchurch Fredrickson

Howard M. Bloom

Philip B. Rosen

Roger S. Kaplan

---

Landmark legislation giving drivers of app-based transportation companies, such as Uber and Lyft, the right to collectively bargain, has been passed by the Seattle City Council. However, the new law faces significant legal hurdles.

Although the new law, enacted on December 13, on its face is intended to improve public health, safety and welfare by providing Seattle with a means to regulate for hire and taxicab transportation services, the ordinance attempts to provide these drivers, who may be independent contractors and therefore exempt from rights afforded by the National Labor Relations Act, with rights analogous to those accorded employees under that Act. The NLRA regulates unionization and collective bargaining among almost all private sector employees in the country.

Section 6.310.735 of the Seattle Municipal Code creates a process for designating Exclusive Driver Representatives (“EDRs”) and for overseeing the collective bargaining process. Any organization may apply to become a Qualified Driver Representative (“QDR”). The transportation company is then required to turn over driver contact information to all QDRs. The information can be used by the QDRs to solicit support from eligible drivers — drivers who have completed 150 trips in the 30 days before the commencement date established by Seattle’s Director of Finance and Administrative Services. To become an EDR of a company’s drivers, the QDR must submit a statement of interest from a majority of that company’s drivers to the Director, who will determine if the statements are sufficient, and certify the QDR as the EDR, if appropriate. If no QDR obtains majority support from the drivers, a QDR will not be certified; however, any QDR can request to repeat the process the following year.

Once an EDR is certified, the parties have 90 days to negotiate certain terms and conditions of work specified by the Director. Either party can request “interest arbitration” (placing their contract dispute in front of an arbitrator for resolution) if the parties are unable to reach agreement within the requisite

time. All agreements must be presented to the Director for review and to ensure compliance with the ordinance.

The ordinance also includes a QDR decertification process, an administrative and private right of action for enforcement, and hefty fines for any transportation company that fails to negotiate in good faith or provide contact information for drivers. The ordinance prohibits retaliation against any driver who participates in the representative process and adverse action against any driver who exercises rights provided by the ordinance.

Seattle Mayor Edward Murray criticized the legislation, citing several “flaws” and the unknown costs associated with the administration of the collective bargaining process. The legislation will become law without his signature.

The ordinance is expected to face significant legal challenges. First and foremost, the ordinance may be preempted by the NLRA, since the National Labor Relations Board may be called upon to decide whether the drivers are employees entitled to engage in collective bargaining under the NLRA, or independent contractors who are not. NLRA preemption may be invoked to oust the City of authority to regulate labor relations involving these drivers – to invalidate the ordinance. (This raises an interesting issue: would a finding of independent contractor status by the NLRB, making the drivers eligible to collectively bargain, nevertheless result in preemption of a city ordinance like Seattle’s? Would this eligibility to collectively bargain paradoxically make the drivers-employees subject to NLRA coverage, preempting the city ordinance?) Second, if drivers are appropriately classified as independent contractors, the ordinance may run afoul of federal anti-trust laws against price-fixing.

Other municipalities likely are watching the Seattle ordinance closely, ready to enact their own ordinances if the Seattle version survives its challenges.

Jackson Lewis P.C. © 2025

---

National Law Review, Volume V, Number 365

Source URL: <https://natlawreview.com/article/seattle-city-council-enacts-ordinance-giving-drivers-right-to-collectively-bargain>