



THE GROWING ROLE OF LOCALITIES IN THE UNITED STATES IN ENACTING AND ENFORCING PROTECTIONS FOR GIG ECONOMY WORKERS



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As the gig economy has expanded, New York City, and Seattle, two progressive cities in the United States, have become leaders in regulating working conditions in the platform economy in recent years through legislation and enforcement. Other localities have also brought enforcement actions to enforce platform workers' rights, recovering millions of dollars for workers. Within the federalist system of the United States, cities and localities may be well-suited to advance protections for platform workers. Localities are new actors in the worker protection space and are innovating to meet the evolving needs of constituents, community and advocacy organizations, and local economies. To some extent, localities also have been able to sidestep the broader worker classification issues faced by states and the federal government by simply mandating labor standards regardless of classification. City action may be well-suited because a high concentration of platform workers live and work in urban areas, and because such communities are often disproportionately affected by traffic and congestion caused by platform work. Localities in the United States and beyond may be a source of untapped potential for advancing and protecting platform workers' rights in a variety of ways.

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Governments around the world have struggled with the question of how to regulate work procured through apps, or platforms. In a wide range of political and legal systems, companies have sought to evade the responsibilities of employers and instead taken the position that platform workers are independent contractors, all running their own small businesses. Such companies engage workers in a range of industries; although transportation and food delivery are the most common, there are also platform companies that use this model to engage home care, health care, hospitality, house cleaning, and other kinds of workers. In the United States, transportation and delivery are generally dominated by a few companies: Uber and Lyft in transportation, and DoorDash, Instacart, UberEats, Grubhub, and Postmates in the delivery space.

In the United States, almost all federal and state laws governing the workplace protect those classified as employees and not independent contractors. Labor and employment matters are generally addressed at the federal or state level, or both. Certain laws, like the National Labor Relations Act, occupy the field and preempt state action, while others, like anti-discrimination laws or the Fair Labor Standards Act, serve as a floor and allow subfederal units, generally states, to legislate and enforce greater protections. Other programs are a product of joint federal-state legislation and administration, such as unemployment insurance programs and workplace safety and health regulation in some states. Generally, each law has its own definition of the term “employee” for the purposes of coverage; these definitions often look to similar or overlapping sets of factors, but they are not identical. Overall, battles related to proper classification of workers, including platform workers, have generally been fought at the federal² and state³ levels in the United States.

Historically, cities and localities have not had a significant role in regulating the workplace in the United States; it simply wasn’t thought of as included in the universe of what localities did for their residents. But this has changed

considerably in recent years, particularly in the past decade.

In the United States, almost all federal and state laws governing the workplace protect those classified as employees and not independent contractors

Progressive cities and localities have passed cutting edge worker protection laws, created and funded dedicated labor enforcement agencies, established worker councils for stakeholder participation, conducted investigations and brought lawsuits about violations of municipal workplace laws, and more.⁴ In some instances, policymaking that started at the local level has catalyzed action at the state level; localities were the first to answer the call of the Fight for 15 campaign to raise minimum wages to \$15 per hour, and they have also led on requiring employers to provide paid sick leave. This surge of activity has added a new layer to the federalist system. (One less positive development has been state preemption of local worker protection laws, particularly in conservative regions of the country).

It is within this broader context that a handful of localities have begun to take action to address the working conditions of platform workers, through new laws and enforcement. While such action has generally been limited to a few leading cities, they provide an example of meaningful local action, and also provide proof of concept regarding the role localities can play more broadly in this space.

To some extent, localities may be well-suited to legislate and enforce certain laws related to platform workers, for several

2 With regard to wage and hour issues, the U.S. Department of Labor has not directly resolved the question of platform worker classification, although it has issued and rescinded guidance and regulations on broader worker classification, as a general matter, as administrations have changed. Similarly, the National Labor Relations Board (“NLRB”) issued a decision — now being revisited — about proper classification of Super Shuttle airport van drivers, but the NLRB has not directly addressed platform worker classification head-on.

3 States have passed legislation on misclassification, including California’s AB5 (adopting the more worker-protective ABC test to determine employee status) and the subsequent Proposition 22 ballot initiative, exempting platform workers from AB5’s protection. Legislation has also been passed in many states carving platform workers out of employment status and employee protections. *Rights at Risk: Gig Companies’ Campaign to Upend Employment As We Know It*, NATIONAL EMPLOYMENT LAW PROJECT (April 2019), <https://s27147.pcdn.co/wp-content/uploads/Rights-at-Risk-4-2019.pdf>. Meanwhile, there have been court cases and enforcement in relation to these matters: in 2020, the California and Massachusetts Attorneys General sued Uber and Lyft, and that same year, New York’s highest court upheld a state labor department decision that a Postmates worker was an employee entitled to unemployment benefits. See *Vega v. Postmates*, 162 A.D.3d 1337 (N.Y. App. Div. 2018); Terri Gerstein, *Workers’ Rights and Protection by State Attorneys General*, ECONOMIC POLICY INSTITUTE and HARVARD LABOR AND WORKLIFE PROGRAM (Aug. 27, 2020), <https://www.epi.org/publication/state-ag-labor-rights-activities-2018-to-2020/>.

4 Terri Gerstein and LiJia Gong, *The Role of Local Government in Protecting Workers’ Rights*, ECONOMIC POLICY INSTITUTE, HARVARD LABOR AND WORKLIFE PROGRAM, LOCAL PROGRESS (June 13, 2022), <https://www.epi.org/publication/the-role-of-local-government-in-protecting-workers-rights-a-comprehensive-overview-of-the-ways-that-cities-counties-and-other-localities-are-taking-action-on-behalf-of-working-people/>.

reasons. They typically do not administer social insurance programs, like unemployment insurance or workers compensation systems, which require a determination of classification for workers to qualify. For matters under their jurisdiction, localities may be able to sidestep the question of classification and simply mandate core working conditions regardless of employee status. The higher concentration of transportation network company (“TNC”) drivers in cities⁵ — which is likely to be the case for other platform workers as well — means that city laws can reach a large number of affected workers. In addition, this concentration of platform work in cities gives rise to particularly urban problems, such as concerns about traffic and congestion. In addition, many urban areas have high costs of living, necessitating even more urgent measures to address low worker pay. One challenge facing localities aiming to regulate platform workers, however, is that classification disputes at the state level can result in preemption of local action.

To some extent, localities may be well-suited to legislate and enforce certain laws related to platform workers, for several reasons

Two cities—New York City and Seattle—have taken the lead in passing legislation aimed at protecting platform workers and expanding their rights. In 2018, New York City passed legislation empowering the Taxi and Limousine Commission (“TLC”), the city’s agency that regulates taxis and for-hire vehicles, to set minimum pay rates for app-based drivers.⁶ Accordingly, later that year, the TLC issued a rule setting a minimum pay standard⁷ based on a study it had previously commissioned.⁸ In 2022, New York City announced a 5.3 percent increase to the driver pay rate.⁹ In 2021, New York City passed several policies to protect delivery workers¹⁰ whose precarity was made clear during the COVID-19 pandemic.¹¹ An organization of bicycle delivery workers, Los Deliveristas Unidos, played a significant role in advocating for the new laws.¹² The policies¹³ include a requirement that restaurants allow delivery workers to use their restrooms as long as they’re picking up an order, transparency for customers and workers about tips (whether the tip goes to workers, in what form, and on what timeline),¹⁴ a prohibition on fees for receiving payment and a requirement that payments are made weekly including at least one option that does not require a bank account, a prohibition on charging workers for insulated delivery bags, and permission for workers to limit their personal delivery zones. The new laws also include a requirement that the city’s Department of Consumer and Worker Protection conduct a study on work-

5 Aditi Shikrant, Transportation experts see Uber and Lyft as the future. But rural communities still don’t use them, VOX (Jan. 11, 2019), <https://www.vox.com/the-goods/2019/1/11/18179036/uber-lyft-rural-areas-subscription-model>.

6 *Establishing minimum payments to for-hire vehicle drivers and authorizing the establishment of minimum rates of fare*, NEW YORK CITY COUNCIL (Aug. 14, 2018), <https://legistar.council.nyc.gov/LegislationDetail.aspx?From=RSS&ID=3487613&GUID=E47BF280-2CAC-45AE-800F-ED5BE846EFF4>.

7 *Notice of Promulgation*, NEW YORK CITY TAXI AND LIMOUSINE COMMISSION (Dec. 4, 2018), https://www1.nyc.gov/assets/tlc/downloads/pdf/driver_income_rules_12_04_2018.pdf.

8 James A. Parrott and Michael Reich, *An Earnings Standard for New York City’s App-based Drivers: July 2018 Economic Analysis and Policy Assessment*, THE NEW SCHOOL CENTER FOR URBAN AFFAIRS and CENTER ON WAGE AND EMPLOYMENT DYNAMICS (July 2018), <https://static1.squarespace.com/static/53ee4f0be4b015b9c3690d84/t/5b3a3a946d2a73a677f855b9/1530542742060/Parrott-Reich+NYC+App+Drivers+TLC+Jul+2018jul1.pdf>.

9 Amrita Khalid, *NYC to raise minimum pay for Uber and Lyft drivers*, ENGADGET (Feb. 15, 2022), <https://www.engadget.com/nyc-gig-drivers-pay-increase-012304976.html>.

10 Press Release, New York City Council, Council Votes on Bills to Protect Delivery Workers (Sept. 23, 2021), <https://council.nyc.gov/press/2021/09/23/2106/>; Claudia Irizarry Aponte and Josefa Velasquez, *New York City Passes Landmark New Protections for Food Delivery Workers* (Sept. 23, 2021), <https://www.thecity.nyc/2021/9/23/22690509/new-york-city-landmark-food-delivery-worker-law>.

11 Maria Figueroa et. al., *Essential but Unprotected: App-based Food Couriers in New York City*, LOS DELIVERISTAS UNIDOS (Sept. 2021), <https://losdeliveristasunidos.org/du-report>.

12 Claudia Irizarry Aponte et. al., *The Deliveristas’ Long Journey to Justice*, THE CITY (Oct. 13, 2021), <https://www.thecity.nyc/2021/9/23/22690318/nyc-landmark-law-food-delivery-workers-deliveristas>.

13 Rachel Sugar, *What You Need to Know About NYC’s New Delivery-App Laws*, GRUB STREET (Sept. 23, 2021), <https://www.grubstreet.com/2021/09/new-delivery-app-laws-nyc.html>.

14 *A Local Law to amend the administrative code of the city of New York, in relation to the disclosure of gratuity policies for food delivery workers*, NEW YORK CITY COUNCIL (Oct. 24, 2021), <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4296908&GUID=678592C0-D7F3-410A-9D1A-4418397D3F07&Options=ID%7cText%7c&Search=third+party>.

er pay and enact rules creating minimum per-trip payments by a set date.¹⁵

Seattle has also been a leader in raising standards for gig workers.¹⁶ In 2020, the city passed an ordinance setting minimum pay for transportation network company drivers,¹⁷ as well as a Transportation Network Company Driver Deactivation Rights Ordinance,¹⁸ which grants drivers the right to challenge unwarranted deactivations before a neutral arbitrator and creates a Driver Resolution Center to provide representation for drivers. In response to the impact of the pandemic on app-based workers, Seattle extended paid sick leave to food delivery and transportation gig workers¹⁹ and also passed an ordinance providing food delivery gig workers premium pay on a per pick-up and drop-off basis.²⁰ Unfortunately, the ordinances that regulate transportation network company drivers are now preempted by a law passed at the state level that codifies the classification of app-based drivers as independent contractors.²¹ Despite this setback, Seattle has continued to set minimum standards for gig workers that are not covered by the state law. For example, in May 2022, the Seattle City Council passed an ordinance establishing minimum payments for app-based delivery workers, requires companies to be transparent about worker pay and tips, and bans companies from punishing workers for rejecting jobs.²²

Seattle has also been a leader in raising standards for gig workers

Cities have also regulated gig economy companies in ways that do not directly impact workers but have indirect impacts on them. For example, since the beginning of the pandemic at least 69 localities have passed fee caps targeting delivery apps, with the most common fee cap set at 15 percent.²³ Although most of these fee caps were temporary measures tied to public health declarations, some cities have made their caps permanent.²⁴ These fee caps aim to protect restaurants from abusive fees by the big four delivery platforms that dominate the industry.²⁵ The impact of such regulations on delivery workers is unclear—for example, does limiting commissions drive down delivery worker compensation, or do abusive fees reduce the number of delivery worker jobs by driving restaurants out of business? In any case, it is notable that despite record-breaking profits by the big four delivery platforms during the pandemic, localities have nonetheless had to set minimum compensation for delivery workers.

15 *A Local Law to amend the administrative code of the city of New York, in relation to establishing minimum per trip payments to third-party food delivery service and third-party courier service workers*, NEW YORK CITY COUNCIL (Oct. 24, 2021), <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4927204&GUID=FCEA3CE8-8F00-4C8C-9AF1-588EA076E797&Options=ID%7CText%7C&Search=delivery>.

16 In one of the earliest local efforts to improve the working conditions of gig workers, Seattle passed an ordinance in 2015 authorizing a collective bargaining process between drivers and transportation network companies through an “exclusive driver representative.” The ordinance was ultimately found to be preempted by federal antitrust laws.

17 *Transportation Network Company Driver Minimum Compensation*, Seattle Mun. Code Chapter 14.33, https://library.municode.com/wa/seattle/codes/municipal_code?nodeId=TIT14HURI_CH14.33TRNECODRMICO.

18 *Transportation Network Company Driver Deactivation Rights Ordinance*, SEATTLE OFFICE OF LABOR STANDARDS (July 1, 2021), <https://www.seattle.gov/laborstandards/ordinances/tnc-legislation/driver-deactivation-rights-ordinance>.

19 *AN ORDINANCE relating to gig workers in Seattle; establishing labor standards requirements for paid sick and paid safe time for gig workers working in Seattle; and amending Sections 3.02.125 and 6.208.020 of the Seattle Municipal Code*, SEATTLE OFFICE OF THE CITY CLERK (June 12, 2020), <https://seattle.legistar.com/LegislationDetail.aspx?ID=4538824&GUID=D6D81875-E8F2-4C8D-B9B1-4B623D196828&Options=ID%7CText%7C&Search=paid+sick+time>.

20 *Gig Worker Premium Pay Ordinance*, SEATTLE OFFICE OF LABOR STANDARDS (June 26, 2020), <https://www.seattle.gov/laborstandards/ordinances/covid-19-gig-worker-protections-/gig-worker-premium-pay-ordinance>.

21 *Certification of Enrollment Engrossed Substitute House Bill 2076*, 67th Legislature, 2022 Regular Session (March 7, 2022), <https://lawfilesexst.leg.wa.gov/biennium/2021-22/Pdf/Bills/House%20Passed%20Legislature/2076-S.PL.pdf?q=20220415084122>.

22 Sarah Grace Taylor, *Seattle City Council passes ‘Pay Up’ bill, raising wages for certain gig workers*, SEATTLE TIMES (May 31, 2022), <https://www.seattletimes.com/seattle-news/politics/seattle-city-council-passes-pay-up-bill-raising-wages-for-certain-gig-workers/>.

23 *State and Local Fee Caps for Dominant Delivery Apps*, PROTECT OUR RESTAURANTS, <http://protectourrestaurants.com/fee-caps>.

24 Joe Guskowski, *NYC Approves Permanent Cap on Delivery Commissions*, RESTAURANT BUSINESS (Aug. 26, 2021), <https://www.restaurantbusinessonline.com/technology/nyc-approves-permanent-cap-delivery-commissions>.

25 *Why Investigate Delivery Apps*, PROTECT OUR RESTAURANTS, <https://www.protectourrestaurants.com/research>.

In addition to passing legislation, several localities have taken enforcement actions against platform companies to protect workers' rights.

Seattle's Office of Labor Standards, for example, was especially active in enforcing Covid-related protections for platform workers, particularly the city's Gig Worker Paid Sick and Safe Time law, passed in June 2020. By the end of 2021, Seattle enforcers had obtained a \$3.4 million settlement with Uber,²⁶ a nearly \$1 million settlement with PostMates,²⁷ and a \$160,000 settlement with DoorDash,²⁸ as well as recovery of more than \$100,000 from Go Puff.²⁹

San Francisco enforcers also took action. In 2021, the City Attorney, San Francisco Office of Labor Standards and Enforcement ("OLSE") and a City Supervisor announced a \$5.3 million settlement with DoorDash,³⁰ the largest in the OLSE's history, following an investigation into potential violations of the city's paid sick leave law as well as its Health Care Security Ordinance,³¹ which creates an employer spending requirement to fund health care benefits for their employees. In addition, OLSE reached a settlement of

nearly \$750,000 with grocery delivery company Instacart in 2020 under the ordinance.³²

Cities have also regulated gig economy companies in ways that do not directly impact workers but have indirect impacts on them

In California, there has been enforcement by city and—in some cases—district attorneys ("DAs").³³ In 2019, the San Diego city attorney sued Instacart for misclassification; a month later, the court granted a preliminary injunction, although enforcement of the injunction was temporarily stayed.³⁴ In 2020, the city attorneys of Los Angeles, San Diego, and San Francisco joined the State Attorney General in suing Uber and Lyft.³⁵ The San Francisco DA that year also filed a civil lawsuit against DoorDash,³⁶ and in 2021, the San

26 Press Release, City of Seattle, Office of Labor Standards (OLS) Reaches Settlement of over \$3.4 Million Dollars with Uber for Alleged Violations of Seattle's Gig Worker Paid Sick and Safe Time Ordinance Impacting Over 15 Thousand Workers (June 24, 2021), <https://news.seattle.gov/2021/06/24/449490/>.

27 Press Release, City of Seattle, Office of Labor Standards Reaches a Nearly One Million Dollar Settlement with Postmates for Alleged Violations of Seattle's Gig Worker Paid Sick and Safe Time Ordinance Impacting Over 1600 Workers (Aug. 4, 2021), <https://news.seattle.gov/2021/08/04/office-of-labor-standards-reaches-a-nearly-one-million-dollar-settlement-with-postmates-for-alleged-violations-of-seattles-gig-worker-paid-sick-and-safe-time-ordinance-impacting-over-1600-wor/>.

28 Press Release, City of Seattle, Seattle Office of Labor Standards Celebrates May Day 2021 with App-Based Workers Appreciation Month (May 2, 2021), <https://news.seattle.gov/2021/05/03/seattle-office-of-labor-standards-celebrates-may-day-2021-with-app-based-workers-appreciation-month/>.

29 October - December 2020 Resolved Investigations, SEATTLE OFFICE OF LABOR STANDARDS, <https://www.seattle.gov/laborstandards/investigations/resolved-investigations/october-december-2020>.

30 Press Release, City Attorney of San Francisco, San Francisco secures over \$5 million settlement for DoorDash workers (Nov. 22, 2021), <https://www.sfcityattorney.org/2021/11/22/san-francisco-secures-over-5-million-settlement-for-doordash-workers/>.

31 City and County of San Francisco Health Care Security Ordinance, CITY AND COUNTY OF SAN FRANCISCO (2022), <https://sfgov.org/olse/sites/default/files/Document/HCSO%20Files/2022%20HCSO%20poster.pdf>.

32 Carolyn Said, Instacart settles with San Francisco over health care benefits for gig workers, SAN FRANCISCO CHRONICLE (Aug. 24, 2020), <https://www.sfchronicle.com/business/article/Instacart-agrees-to-pay-health-care-and-sick-15511338.php>.

33 While district attorneys nationwide are best known as criminal prosecutors, district attorneys in California and several other states have authority to bring both civil and criminal enforcement cases. 2 Cal. Bus. & Prof. Code § 17200.

34 Cyrus Farivar, *Judge blocks Instacart from misclassifying its California workers*, NBC NEWS (Feb. 25, 2020), <https://www.nbcnews.com/tech/tech-news/first-judge-rules-instacart-has-misclassified-its-california-workers-n1142286>.

35 Press Release, State of California Department of Justice, Attorney General Becerra and City Attorneys of Los Angeles, San Diego, and San Francisco Sue Uber and Lyft Alleging Worker Misclassification (May 5, 2020), <https://oag.ca.gov/news/press-releases/attorney-general-becerra-and-city-attorneys-los-angeles-san-diego-and-san>.

36 Andrew J. Hawkins, *San Francisco's district attorney sues DoorDash for alleged unfair business practices*, THE VERGE (June 16, 2020), <https://www.theverge.com/2020/6/16/21293474/doordash-sf-district-attorney-lawsuit-worker-misclassification>.

San Francisco and Los Angeles DAs together sued the cleaning company Handy for misclassification.³⁷ Shortly thereafter, three city labor offices (Chicago, Seattle, and Philadelphia) sent a letter inquiry regarding Handy's potential misclassification.³⁸ These cases are ongoing.

Finally, two cities have taken action to protect platform workers' right to their tips: Chicago and the District of Columbia. (Although it operates more like a state with regard to some legal matters, D.C. is unfortunately still a city, and therefore included in this discussion). In 2019, the D.C. Attorney General filed a lawsuit against the food delivery company DoorDash for retaining tips meant for workers.³⁹ His office ultimately recovered \$2.5 million in a 2020 settlement with the company, \$1.5 million of which was dedicated to worker restitution.⁴⁰ The company used consumers' tips to offset the guaranteed amount it promised workers, so in effect a portion of customer tips were being used to subsidize the company's own obligation to workers instead of increasing workers' pay. The lawsuit was brought as an action to protect consumers from fraud, because consumers intended tips to go to the workers. In 2022, the city of Chicago sued DoorDash and Grubhub for allegedly deceptive and unfair business practices; that lawsuit largely focused on issues related to the company's conduct in relation to restaurants themselves, but it also contained allegations that the company illegally retained workers' tips.⁴¹

Unfortunately, in some instances, state-level laws have preempted cities from taking action on labor issues in general, or in relation to platform work issues in particular. Particularly in traditionally conservative regions of the country, states like Texas and Florida have passed laws preventing more progressive localities from setting wages, passing paid sick leave laws, or enacting other measures to improve the conditions of workers within their jurisdictions.⁴² While such broad preemption is uncommon in more progressive

locales, even in liberal states, harmful preemption laws have been enacted to prevent local regulation of certain platform companies. Most notably, California's Proposition 22, a successful 2020 state ballot initiative that carved TNC and delivery workers out of state law employment protections, also preempted local action in relation to these industries.⁴³ More recently, a law passed in Washington state in 2022 that preempts local regulation of TNCs in any way, a particularly harmful development given Seattle's national leadership in this area.

Finally, two cities have taken action to protect platform workers' right to their tips: Chicago and the District of Columbia

Ultimately, platform worker issues in the United States will have to be resolved at the state and federal levels. But localities can make a meaningful difference in workers' lives in the meantime, and some have done so. As noted above, because they do not administer large scale benefit programs, and because their involvement in workplace matters is relatively nascent, localities may have some leeway to sidestep classification and take direct action to protect workers. They can also shape laws to the particular needs of a given industry, prohibiting arbitrary deactivation of platform workers, or requiring bathroom access for bicycle delivery workers. (The latter was a major victory, although it's distressing that meeting such a basic human need must be addressed through legislation). Cities can pilot innovations in relation to workers' rights, like

37 Press Release, San Francisco District Attorney, District Attorney Boudin and Los Angeles District Attorney George Gascón Announce Worker Protection Action Against Handy for Misclassifying Its Workers (March 17, 2021), <https://www.sfdistrictattorney.org/press-release/district-attorney-boudin-and-los-angeles-district-attorney-george-gascon-announce-worker-protection-action-against-handy-for-misclassifying-its-workers/>.

38 A Letter to Handy CEO Oisin Hanranhan Re: Treatment of Workers, MEDIUM (May 21, 2021), <https://publicrightproject.medium.com/a-letter-to-handy-ceo-oisin-hanranhan-re-treatment-of-workers-f778e4673f42>.

39 District of Columbia v. DoorDash, Inc. (Super. Ct. D.C. 2019), Complaint for Violations of the Consumer Protection Procedures Act, <https://oag.dc.gov/sites/default/files/2019-11/DoorDash-Complaint.pdf>.

40 Press Release, Office of the Attorney General for the District of Columbia, AG Racine Reaches \$2.5 Million Agreement with DoorDash for Misrepresenting that Consumer Tips Would Go to Food Delivery Drivers (Nov. 24, 2020), <https://oag.dc.gov/release/ag-racine-reaches-25-million-agreement-doordash>.

41 Press Release, City of Chicago Business Affairs and Consumer Protection, City of Chicago Files Consumer Protection Lawsuits Against DoorDash And Grubhub For Engaging In Deceptive And Unfair Business Practices (Aug. 27, 2021), https://www.chicago.gov/city/en/depts/bacp/provdrs/business_support_tools/news/2021/august/lawsuitgrubhundoordash.html.

42 Julia Wolfe et. al., Preempting progress in the heartland, ECONOMIC POLICY INSTITUTE (Oct. 14, 2021), <https://www.epi.org/publication/preemption-in-the-midwest/#:~:text=Preemption%20laws%20in%20the%20Midwest,in%20these%20cities%20are%20Black>.

43 Text of Proposed Laws- Proposition 22, CALIFORNIA SECRETARY OF STATE (2020), <https://vig.cdn.sos.ca.gov/2020/general/pdf/topl-prop22.pdf>.

creation of the driver resource center in Seattle. Localities can also commission and author reports that shed light on the genuine working conditions of platform workers, as New York City's Taxi and Limousine Commission did before creating the city's pay standard for such workers. And where localities regulate in relation to a particular industry, such as TNCs, they can consider the broad impact of company practices, not just on workers, but on traffic and the environment as well, as occurred in relation to formula for driver pay in New York City and Seattle, where the pay formula discourages dead time in which TNC drivers are driving without passengers.

In addition, there is a tradition with the U.S. federalist system of states acting as "laboratories of experimentation"⁴⁴ that innovate and pilot new approaches, which then can be expanded to other jurisdictions or at the federal level. Cities and localities are increasingly playing this role in the area of worker protection generally; this may be a useful role in relation to gig worker protections in particular.

In short, cities and localities may be a promising untapped source of rights and protections for platform workers, certainly within the United States, and potentially elsewhere as well. More local leaders should consider whether there are ways they can help to improve conditions for this vulnerable and often exploited workforce.



Ultimately, platform worker issues in the United States will have to be resolved at the state and federal levels

44 New State Ice Co. v. Liebmann, 285 U.S. 262, 311 (1932) (Brandeis J, dissenting opinion).

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