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Authors

Shaheen, Susan, PhD

Wolfe, Brooke

Cohen, Adam

et al.

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Challenges and Opportunities Facing App-Based Gig Drivers Extend Beyond Driver Pay

Susan Shaheen, Ph.D.; Brooke Wolfe; Adam Cohen; and Jacquelyn Broader
 University of California, Berkeley – Transportation Sustainability Research Center

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Issue

Throughout the U.S., app-based gig drivers provide valuable services for courier network services (CNS)¹ like Instacart, Uber Eats and DoorDash, and transportation network companies (TNCs)² such as Uber and Lyft. In California, gig labor classification is governed among other things by [Assembly Bill 5](#) (AB 5)³, which passed in 2019, and [Proposition 22](#) (Prop 22)⁴ adopted in 2020. AB 5 established the ABC Test⁵ for worker classification in California labor law. The ABC Test results in most app-based drivers being classified as employees, who are due full labor rights and benefits in California. However, gig drivers were exempted from the ABC Test when California voters approved Prop 22.⁶ As a result, under Prop 22, most CNS and TNC drivers

in California are classified as independent contractors. Figure 1 provides an overview of key labor considerations (compensation and classification) for app-based drivers.⁷ Understanding the nuances of California labor law as it applies to app-based gig drivers is critical to addressing areas such as: worker flexibility, the need for high-quality jobs, and driver pay variability due to the lack of transparency with algorithm-based platforms. To better understand evolving CNS and TNC labor policy, we conducted interviews with experts (n=8) across the U.S. representing labor, academia, and regulators between June 2022 to February 2024 and examined policy approaches of other cities and states on this issue.

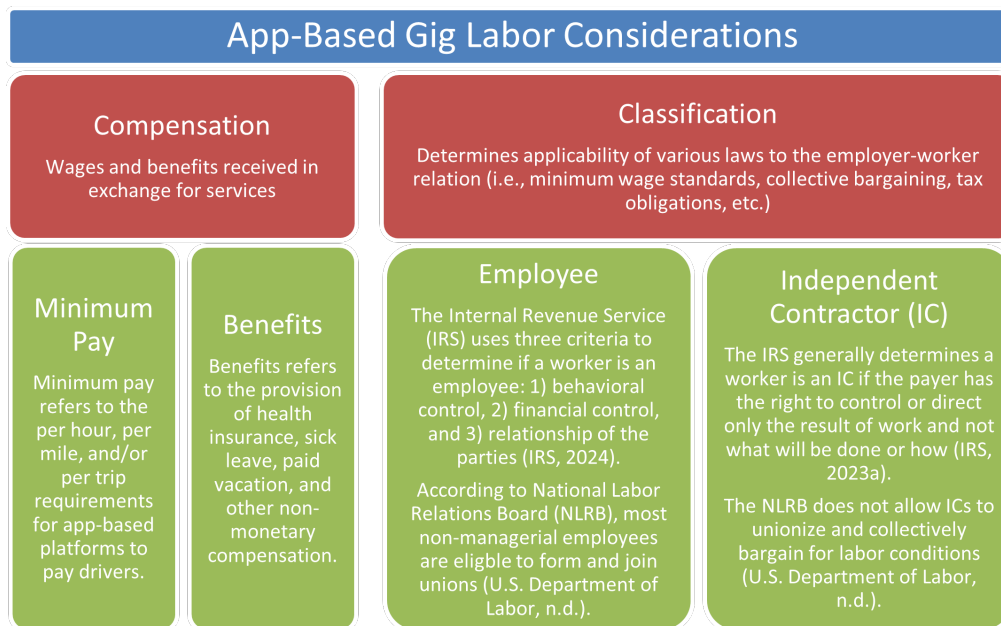


Figure 1. App-Based Gig Labor Considerations

Key Research Findings

Not all app-based gig drivers want the same pay, benefits, and worker classification. App-based platforms attract an array of drivers ranging from periodic (driving a few times per month) to part-time (driving less than 30 hours per week) to full-time (driving 30 to 40 hours per week)⁸ or more. Additionally, some drivers work for app-based gig companies as their primary source of income, while others drive to supplement their income while working primarily in another career field.

App-based gig drivers would like greater transparency of app-based platforms’ algorithmic management. This includes how rides are assigned, how incentives are offered and disbursed, how drivers are removed from platforms, and how bonuses are distributed. They also expressed concern regarding deactivation if they decline certain types of rides (e.g., pooled rides), work incentives and gamification that can influence the number and type of rides drivers accept, and app-based gig driver earnings.

Other U.S. cities and states are considering or implementing policies that regulate gig labor employment practices. These policies address issues related to minimum pay; worker benefits (e.g., paid leave, accrual of sick time, etc.); worker classification (employee versus independent contractors); and app-based platform transparency. See the table below.

App-based gig drivers are concerned about the impacts of vehicle electrification. California’s Senate Bill 1014 established the Clean Miles Standard, which requires that 90% of TNC-driven miles be completed by electric vehicles (EVs) by 2030. TNC drivers are concerned about the high upfront cost of acquiring an EV, limited EV charging availability, and the impacts of EV ownership and operations on driver earnings (e.g., more time dedicated to charging their vehicle versus serving customers). As state and federal policies mandate and support vehicle electrification, it will be important to address the specific challenges faced by gig drivers. This could include providing targeted education to gig drivers on the impact of EV policies on leasing and ownership, incentivizing strategic placement of charging stations that serve gig drivers, providing monetary incentives to mitigate the burden of accessing an EV (through lease or purchase) and EV charging, and gathering more data and information on gig driver habits, total cost of EV ownership, and vehicle and infrastructure needs.

More Information

This policy brief is based on a forthcoming publication, which when published will be available at www.ucits.org/research-project/rimi-4f. For more information, please contact Susan Shaheen at sshaheen@berkeley.edu.

Location	Policy Highlights	Status
Colorado	TNC Deactivations (SB24-075) : ⁹ TNCs must develop and provide deactivation policies/procedures and report deactivations to the state	Introduced in state senate January 22, 2024
	CNS Deactivations (HB24-1129) : ¹⁰ Delivery platforms must develop and provide deactivation policies/ procedures and report deactivations to the state	Introduced in state house January 29, 2024
New York City, New York	TNC Minimum Pay : ¹¹ \$0.583 per minute and \$1.36 per mile for in-town, non-wheelchair accessible vehicle	Passed August 14, 2018; effective as of March 1, 2024
	CNS Minimum Pay : ¹² \$19.56 per hour, not including tips	Effective as of April 1, 2024
Seattle, Washington ¹³	TNC Minimum Pay : ¹⁴ \$0.66 per minute and \$1.55 per mile or \$5.81 per trip, whichever is greater	Effective as of January 1, 2024
	CNS Minimum Pay : ¹⁵ \$0.44 per minute and \$0.74 per mile or \$5 per trip, whichever is greater	Effective as of January 13, 2024
	TNC and CNS Paid Sick Time : ¹⁶ One day of sick time for every 30 days worked; drivers are to be paid for used sick time based on average daily compensation	TNC paid sick time policy effective as of January 13, 2024, and CNS paid sick time policy effective as of May 1, 2023
	TNC and CNS Deactivations : ¹⁷ Platforms must provide notice prior to deactivation and allow workers to challenge deactivation	Effective January 1, 2025

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Endnotes

- ¹Courier network services offer for-hire delivery of food, packages, and other items through digital applications or platforms that connect consumers to individual drivers using their own personal transportation.
- ²Transportation network companies (TNCs) provide travelers with pre-arranged and/or on-demand access to a ride for a fee, using a digitally enabled application or platform (e.g., smartphone apps) to connect travelers with drivers using their personal, rented, or leased motor vehicles. TNCs are sometimes referred to as ridesourcing or ridehailing.
- ³https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB5
- ⁴[https://ballotpedia.org/California_Proposition_22,_App-Based_Drivers_as_Contractors_and_Labor_Policies_Initiative_\(2020\)](https://ballotpedia.org/California_Proposition_22,_App-Based_Drivers_as_Contractors_and_Labor_Policies_Initiative_(2020))
- ⁵The ABC Test determines a worker to be an independent contractor if they are: A) Free from the hirer’s control and direction of the worker’s performance; B) Performing work that is outside the usual course of the hiring entity’s business; and C) Typically engaged in an independently established trade, occupation, or business of the same nature as the work they are performing for the hiring entity (State of California, Labor & Workforce Development Agency, n.d.).
- ⁶At the time of this writing, the constitutionality of Prop 22 is under review by the California Supreme Court.
- ⁷The definitions of employee and contractor may vary by government agency.
- ⁸According to the IRS and Affordable Care Act rules, full-time employment is associated with an average of 30 hours of work per week (IRS, 2023b; U.S. Centers for Medicare & Medicaid Services, n.d.). According to the California Labor Code Division 2 Part 2, full-time is associated with 40 hours of work per week (California Legislative Information, 2013).
- ⁹<https://leg.colorado.gov/bills/sb24-075>
- ¹⁰<https://leg.colorado.gov/bills/hb24-1129>
- ¹¹<https://www.nyc.gov/site/tlc/about/driver-pay-rates.page>
- ¹²<https://www.nyc.gov/site/dca/workers/workersrights/Delivery-Workers.page>
- ¹³Different rates apply to TNC trips that start and end outside of Seattle, Washington. [The Washington State Department of Labor & Industries](#) provides additional information on the alternative rates.
- ¹⁴<https://lni.wa.gov/workers-rights/industry-specific-requirements/transportation-network-company-drivers-rights/getting-paid>
- ¹⁵<https://www.seattle.gov/laborstandards/ordinances/app-based-worker-ordinances/app-based-worker-minimum-payment-ordinance>
- ¹⁶<https://www.seattle.gov/laborstandards/ordinances/app-based-worker-ordinances/app-based-worker-paid-sick-and-safe-time-ordinance>
- ¹⁷<https://www.seattle.gov/laborstandards/ordinances/app-based-worker-ordinances/app-based-worker-deactivation-rights-ordinance>

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