

# For-Hire Driver Representation and Collective Bargaining

This document provides for-hire drivers with basic information on key features of the City of Seattle's collective bargaining ordinance. **Information is subject to change.**

## The Ordinance

In December 2015, the Seattle City Council unanimously passed the for-hire driver collective bargaining ordinance. Mayor Murray did not sign the bill, and the bill became law without his signature.

The ordinance allows taxicab, for-hire vehicle and transportation network company drivers to decide if they want to be represented in bargaining efforts with the companies they drive for (including companies like Uber, Lyft, Yellow Cab, Eastside for Hire, or others, which are referred to as "driver coordinators"), regarding issues such as payments to drivers, vehicle safety and other matters of mutual interest. The ordinance does not require for-hire drivers to exercise that right.

Seattle is the first city in the country to adopt a law like the for-hire driver collective bargaining ordinance.

## City Council's Role

The City Council could choose to make changes to the ordinance by introducing and passing new legislation. While the City Council has no current role in implementing the law, including rulemaking, people and parties affected by the law may contact councilmembers with feedback.

## FAS' Role and the Rules

The ordinance does not include all the details needed to put the law in place. As such, the ordinance directs the City's Department of Finance and Administrative Services (FAS) to propose and finalize a series of administrative rules (also known as director's rules) to provide those details.

Administrative rules describe how the law will work in practice; rulemaking is not a mechanism for FAS to create new law or to correct perceived flaws in the ordinance. In drafting the rules, FAS must work within certain boundaries and ensure that all rules implement the ordinance as adopted by the City Council.

As part of the rulemaking process, FAS issues proposed administrative rules before they are final and takes public comment on those proposed rules. On Dec. 6, 2016, FAS hosted a public hearing on four proposed rules:

- FHDR-1, Qualifying Driver and Lists of Qualifying Drivers
- FHDR-2, Application Process for Designating a Qualified Driver Representative
- FHDR-3, Certification of an Exclusive Driver Representative
- FHDR-4, Subjects of Bargaining

While the FAS director finalized and signed these four rules on Dec. 29, 2016, they were later amended with technical corrections.

On March 21, 2017, FAS hosted a public hearing on six additional proposed rules:

- FHDR-5, Interest Arbitration
- FHDR-6, Approval of an Agreement, Changes to an Existing Agreement and Withdrawal of an Existing Agreement
- FHDR-7, Renewal Application Process for a Qualified Driver Representative
- FHDR-8, Decertification of an Exclusive Driver Representative
- FHDR-9, Enforcement Powers of the Director
- FHDR-10, Commencement Dates

FAS finalized the four amended and six proposed rules in May; the 10 rules cover the ordinance's implementation from start to finish. Finalizing an administrative rule does not require the City Council's vote or the Mayor's signature.

## Commencement Date

The ordinance establishes a commencement date, which triggers certain milestones and deadlines. For example, one of these milestones is the application period for organizations interested in applying for designation as a qualified driver representative (QDR). The initial commencement date was Jan. 17, 2017, and the deadline for applying to be designated as a QDR was Feb. 16, 2017. QDRs and entities interested in applying for designation as a QDR may request additional future commencement dates.

## Qualifying Driver

The ordinance says that only qualifying drivers may participate in the decision whether a QDR should be recognized as the “exclusive driver representative” and negotiate on behalf of a particular driver coordinator’s drivers. The ordinance does not define a “qualifying driver” but instructed the FAS director to define this term. The ordinance did tell the FAS director to consider factors “such as the length, frequency, total number of trips and average number of trips per driver completed by all of the drivers who have performed trips in each of the four calendar months immediately preceding the commencement date, for a particular driver coordinator, and any other factors that indicate that a driver’s work for a driver coordinator is significant enough to affect the safety and reliability of for-hire transportation.”

Using the best data available, FAS established an administrative rule that states that a qualifying driver is a for-hire driver licensed under the Seattle Municipal Code who meets the following conditions based on the commencement date of Jan. 17, 2017:

- Was hired by or began contracting with, partnering with or maintaining a contractual relationship with a particular driver coordinator prior to Oct. 19, 2016.
- Drove at least 52 trips originating or ending within the Seattle city limits for a particular driver coordinator during any three-month period between Jan. 17, 2016, and Jan. 17, 2017. A trip is defined as transporting a passenger from one place to another for compensation.

A new commencement date could be established, which would change the dates used to determine a qualifying driver. In addition, a for-hire driver may be a qualifying driver for more than one driver coordinator (i.e., a company like Uber, Lyft, Yellow Cab or Eastside for Hire). More information on a qualifying driver is available at <http://bit.ly/DriverRepresentation>.

## Qualified Driver Representative

The ordinance provides a non-profit organization, not just a traditional labor union, with the opportunity to apply for designation as a QDR. The organization must meet certain qualifications established by the ordinance and an administrative rule. The organization must continually remain in good standing to maintain its designation.

For the initial of Jan. 17, 2017, Teamsters Local 117 applied for the QDR designation, the only organization to do so. After carefully reviewing the application against the ordinance and rule, FAS formally designated Local 117 as a QDR on March 3, 2017.

A QDR designation does not automatically mean that Local 117 now represents any group of drivers. Rather, the designation allows Local 117 to seek support from qualifying drivers for a particular company (driver coordinator). If the City determines that a QDR has obtained support from a majority of qualifying drivers for a particular driver coordinator, then the QDR becomes an exclusive driver representative (EDR) on the drivers’ behalf (for that particular driver coordinator only). The EDR must then negotiate with the driver coordinator to reach an agreement. The agreement will only take effect when approved by the director.

## Privacy of Drivers’ Information

When the QDR has communicated its intent to represent the drivers of a particular driver coordinator, that driver coordinator is obligated to provide the QDR with the name, contact information and for-hire driver permit/license number of all qualifying drivers who contract with that driver coordinator.

A QDR will use the information received for the sole purpose of contacting drivers to solicit their interest in being represented by the QDR. The QDR may not sell, publish or otherwise disseminate the driver contact information outside the entity/organization. The ordinance gives FAS the authority to investigate alleged misuse of drivers’ information and impose penalties, if necessary.

## Statements of Interest

A separate information sheet on statements of interest is available at <http://bit.ly/DriverRepresentation>.

## Driver Vote on a Proposed Agreement

The ordinance is silent regarding any driver vote on a proposed agreement negotiated by an EDR and a driver coordinator. However, the ordinance and a City administrative rule both require a QDR to have bylaws that give for-hire drivers the right to participate in the democratic control of the organization.

## Representation Decision by Company Not by Industry

The decision on whether drivers will be represented by an EDR is company-specific. Qualifying drivers at one company do not make decisions for drivers at other companies. For example, if the qualifying drivers at Eastside For Hire decide to be represented by an EDR, that does not mean Uber or Lyft drivers are represented as a result. Rather, a majority of Uber's qualifying drivers and a majority of Lyft's qualifying drivers would need to separately approve representation.

## Taxicab Drivers and Unionization

Taxicab drivers in Seattle are not unionized and do not work under a collective bargaining agreement. Rather, some drivers have independently decided to participate in driver-specific membership associations sponsored by Local 117. Taxicab companies are covered by the ordinance, and taxicab drivers may decide to be represented by an EDR.

## Agreement Terms

The ordinance and an administrative rule require an EDR and a driver coordinator to negotiate about certain specific subjects, including vehicle equipment standards, driver training and payments to drivers. If they can't reach agreement, an EDR or a driver coordinator can initiate a process called interest arbitration. An agreement reached through negotiations or interest arbitration must be approved by the FAS director to take effect. In deciding whether to approve an agreement, the FAS director will consider whether it promotes safe, reliable and economical for-hire transportation.

If an agreement is negotiated and approved, we do not know what the agreement will say about driver scheduling, member dues and many other topics.

## Timeline

The ordinance does not specify an end date to driver organizing efforts but does specify that a driver coordinator can be subject to an attempt to organize drivers only once in any 12-month period.

## Legal Challenges

Through May 2017, the ordinance and its implementation have been challenged four times.

- In March 2016, the U.S. Chamber of Commerce sued the City; a federal judge dismissed the lawsuit as premature in August 2016.
- In January 2017, Uber filed a petition in King County Superior Court challenging the City's rulemaking process; a judge ruled in favor of the City in March 2017. That ruling is on appeal.
- Also in March 2017, the U.S. Chamber of Commerce refiled its lawsuit in federal court. The Freedom Foundation, on behalf of several Uber and Lyft drivers, also filed a lawsuit in the same court. The federal court has issued a preliminary injunction, which puts on hold certain companies' obligation to produce a qualifying driver list to Local 117. The City has filed motions to dismiss those federal cases.

## Additional Information

The City maintains a webpage at <http://bit.ly/DriverRepresentation> with more information on for-hire driver representation and collective bargaining, including all administrative rules and the ordinance. To contact FAS, please send email to [DriverRepresentation@seattle.gov](mailto:DriverRepresentation@seattle.gov).