

October 6, 2021

Testimony in Opposition to H.1234, “An Act Establishing Portable Benefit Accounts for App-Based Drivers”

Chairman Murphy, Chairman Crighton, and distinguished members of the Joint Committee on Financial Services:

Thank you for the opportunity to testify on this important matter. I write in opposition to House Bill 1234. As Attorney General Maura Healey has [maintained](#), a company like Uber or Lyft assigns tasks to their workers via cell phone app should not excuse them from providing the full benefits and protections due under Massachusetts Wage and Hours Laws, including those granted by the Wage Act, Minimum Wage Law, Overtime Law, Earned Sick Time Law, and Anti-Retaliation Statutes.

The bill in question would create a loophole in employment law, enabling some companies to avoid their obligations to their workers. The benefits and protections in this bill are unambiguously weaker than those required for other employees. The bill’s minimum wage assertions are deeply compromised by excluding so many of the hours work performed.

A [review](#) by the University of California Berkeley determined that the arrangement sought by Uber and Lyft would fail to deliver on its promises. A majority of Massachusetts drivers could earn as little as the equivalent of a \$4.82 wage. For the minority of drivers who would qualify for a health care stipend, they could earn the equivalent of \$6.74 per hour. Drivers would not be paid for the time between rides waiting for assignments. Nor would drivers be fully compensated for expenses like gas and insurance.

The threat to labor standards is not limited to wages. A similar arrangement companies put in place in California reportedly provides health insurance to [only a small minority](#) of rideshare or delivery drivers, with coverage worst for drivers of color. Workers would lack strong paid family leave, unemployment insurance and worker’s compensation, the right to join a union, and employee protections against sexual harassment and racial discrimination at work. Leaving workers out of social insurance pools such as unemployment insurance will ultimately undermine these programs and their financing.

The legislation would also encourage other employers to introduce app-based interfaces with their employees to avoid paying for worker benefits and protections. The proliferation of remote work arrangements and workplace task management platforms make it plausible that virtually any employee could become misclassified as an employee with the aid of an app-based interface.

Thank you for your time and consideration.

Sincerely,
Phineas Baxandall, Ph.D., Senior Analyst
Massachusetts Budget and Policy Center