



New York Taxi Workers Alliance

National TWA, AFL-CIO, Intl. Transport Workers' Federation

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September 17, 2018

Honorable Council Speaker Corey Johnson
City Hall
New York, New York 10007

Honorable Councilman Ruben Diaz, Sr.
250 Broadway, Room 1804
New York, NY 10007

Dear Honorable Speaker Johnson and Honorable Chairman Diaz:

We want to thank you, Speaker Johnson, Chairman Diaz and bill sponsors Council Members Rodriguez (Int. 304), Grodenchik (Int. 1062), Levin (Int. 1068), Levine (Int. 1069), Moya (Int. 1070), Richards (Int. 1079) and Salamanca (Int. 1081) as we continue with Phase II of legislation to address the race to the bottom and crisis among taxi and FHV drivers. We campaigned on each of these proposals, including having submitted a detailed Policy briefing in April and our Civil Rights Initiative in July, and you heard us and took action through intros that will help improve the lives of a workforce of over 100,000 New Yorkers. While we know it will still take time for drivers to materially feel the impact of these bills, along with the historic FHV Vehicle Cap, FHV Driver minimum wage requirement and first-time regulatory framework for Wall Street financed App companies, we hope every Council Member knows that your actions to date have given a new sense of hope to a workforce that has been in a crisis like we have never seen before. The intros before the Council today are a starting point in addressing the ways drivers are left in poverty through predatory lending, high rates of foreclosures and bankruptcies and nickel and diming deductions from their hard-earned income, left vulnerable without healthcare and financial safety nets when unable to work due to illness or injury, and left at a disadvantage without full financial transparency in an industry that has shifted all the major cost of operations onto their shoulders.

Regardless of sector, each driver starts at a negative, works long 10-12 hour shifts, bears the risks of street closures and mechanical failures, and faces threats to safety on the job. Over the past three years, we have suffered as a job that once provided stable and above minimum wage income has been shredded into “gigs” with poverty pay. The full package of bills – those already passed and those introduced on August 8th – will help put us back on the road to recovery, and give us a fighting chance to stop the poverty and transform this job back to where it once was and from there, make it what it should be.

We write in general support of the proposed bills and to request the following amendments:

Int. 1070 (Moya): Leasing, rental and conditional purchase of for hire vehicles

At the April 30th, 2018 FHV Committee Hearing, Abraham Lobe testified calling for a bill to regulate the FHV leasing sector.

I entered into a lease-to-own agreement for a used Lincoln MKT, for 3 years of \$500 weekly payments. The car was already one year old with 30,000 miles on it. The estimated bluebook value would be around \$28,500 while I paid \$78,000. I was also required to fix repairs only at their garage.

The company would own the car until the end when they would sell it to me. About a year in, the company failed to renew the FHV license. Because they were the owner they had to do that-- they were the only ones who could file the TLC paperwork. With the license expired I couldn't drive for three weeks. They didn't provide me a loaner car. I couldn't work so I couldn't keep up with my bills. No savings, no income, I became homeless.

When the car was ready, they told me to come back and sign on an electronic signature box to get it back. Later I found that they attached this signature to another contract that I had never seen--- this was a contract with a company with a totally different name, for even more payments than I had originally signed up for.

I paid them more than \$78,000 but they refused to give me title to the car. They continued to bill for the weeks when I couldn't even use the car. They billed me for summonses that I had never heard of. I did a freedom of information request and found that they were charging for summonses that vehicle owners have to pay. They even charged for a summons related to the driver who had the car before me.

I made a complaint to TLC because they had put my signature on a contract they never showed me, but they took no action. In desperation, I went to the company to try to pay the extra money they wanted, to get the title to my car, even though I knew I shouldn't owe them that, but they wouldn't give it to me. They said they wouldn't let me make those payments because I had made a complaint to the TLC.

Even though they retaliated against me for making a complaint about forging my signature and trying to get me into a longer contract TLC has still done nothing.

We need the City Council to pass this bill, make sure the TLC passes rules that prevent this, and make sure that they actually enforce against violations. –Abraham Lobe

Across the FHV sector, drivers are responsible for all vehicle-related expenses, from the purchasing price, maintenance, repairs, and insurance. Maintenance alone can cost up to \$8,000 per year. Leasing costs for a driver leasing or financing a car through an Uber-affiliated broker can cost \$450/week for the vehicle and insurance. A recent advertisement from Uber showed weekly lease and insurance rates of \$350-\$399/week. That's \$18,200 to \$20,800 per year; or over three years, \$54,600 - \$62,400. We also have documented cases of members paying close to \$80,000 to purchase cars, including used ones.

- **Abraham Lobe** entered into lease-to-own agreement for 3 years of \$500 weekly payments. He paid **\$78,000** for a used Lincoln MKT with 30,000 miles on it.

Abraham's story is not isolated:

- **Md S Islam** entered into a lease to purchase agreement with Tower. The contract was for \$369 in weekly lease for up to 186 weeks, plus a \$1,000 down payment. He paid **\$69,634** for a 2014 Toyota Camry with 5,000 miles.
- **Bahi Antaole** leased a car from American Leasing Company at \$452 per week for up to 186 weeks. He paid **\$84,072** for a Toyota Sienna.
- **Salifou Halirou** leased from American Leasing Company, paying \$425 per week for up to 182 weeks and \$825 down payment. He paid **\$78,175** also for a Toyota Sienna.
- **Lamine Bah** paid \$425 per week for up to 186 weeks, totaling **\$79,050** for a Toyota Sienna, also to American Leasing.

The predatory lending practices rampant in the sector are a result of two factors: the oversaturation of vehicles and lack of regulation over this sector. In their quest to flood the streets, companies such as Uber promised drivers bonanza earnings on one hand and low-cost car leases on the other. Uber agreed to settle charges with the Federal Trade Commission for \$20 million over false advertising on how big drivers could earn and with how little you could buy a car, even with bad credit.

As reported in *Gizmodo*: “The FTC accused Uber of making “false, misleading, or unsubstantiated claims regarding driver earnings” on its website and in ads on Craigslist, in an investigation that began in spring 2015. The company had claimed, for example, that drivers in New York earned a median \$90,000 annually and that drivers in San Francisco earned a median \$74,000 per year. **The FTC investigation found that less than ten percent of drivers in those cities earned the advertised rates, according to the agency’s complaint.** In fact, New York drivers’ (GROSS) earnings were closer to \$61,000 and San Francisco drivers’ earnings were closer to \$53,000, the FTC found. **The FTC also alleged that Uber was misleading about the financing options it could offer drivers.**”¹ (Emphasis added). Again, the cited earnings are Gross, before vehicle, gasoline and other expenses. A few months prior to the FTC fine, Uber shut down its own in-house leasing program which it operated nationally except in NYC.²

Starting in 2014, across the city, companies bought cars at bulk and entered into third-party agreements with Uber to have the lease deducted directly out of driver incomes from the company. In 2015, many Council Members will recall that leasing companies were the loudest corporate naysayers against a temporary cap on new FHV cars. Uber gives promotional flyers with names of the companies and drivers are sold “first week free” bonuses if they show their Uber affiliation. If a driver misses work for any reason, the leasing companies are forwarded the

¹ <https://gizmodo.com/in-letter-uber-said-drivers-didnt-make-advertised-earn-1820928444>. “**In Letter, Uber Said Drivers Didn’t Make Advertised Earnings Due to Their ‘Choices’**”, Kate Conger, 12/21/2017

² CEO Dara Khosrowshahi explaining at a staff meeting, “Especially in times of trouble -- and right now Uber is in some trouble as far as public perception goes -- you really want to focus on the core, and the core of this business is what’s going to pay the bills.” <https://www.bloomberg.com/news/articles/2017-10-25/uber-is-said-to-take-bids-for-its-subprime-lending-unit-s-assets>. “**Uber Fields Bids for Its Subprime Lending Unit’s Assets**”, Gabrielle Coppola and Eric Newcomer, October 25, 2017

current week's lease plus any debt, even if the driver is left with no income at all after the deductions. One of our members, Jeffrey Shepherd, is one of three drivers found to be an employee eligible for Unemployment benefits after he was left with a penny in earnings from Uber as a result of the deductions.³ The companies may also charge fees above the weekly rental lease or financing charges and insurance, including a program to cover repairs, TLC vehicle licensing fees, and termination fees. Weekly \$150 add-ons alone could total \$7,800 at the end of the year. Drivers are nickel and dimed to starvation.

Along with predatory financing and leasing, unlimited weekly deductions, and unregulated "add-ons," drivers who enter into lease-to-own agreements also face problems when trying to retrieve the title of their vehicle. The leasing companies also activate or "deactivate" your account, set hours of work and number of hours required and can retaliate if you file complaints against their practices at the Taxi and Limousine Commission.

Passing Int. 1070 is the first step in providing protections to drivers in the largest sector of the industry today. The legislation and subsequent TLC rulemaking is all the more critical as drivers' rights are not protected under city and state consumer laws which only apply to agreements over cars for personal use, not commercial activity.

In 2012, NYTWA lead a campaign at the TLC to cap the financing expenses paid by drivers in the medallion yellow cab sector. Agents – entities that lease the medallion and finance the sale of the vehicle have been subject to the "All-in lease cap" which stopped the practice of bypassing the TLC's medallion lease cap by arbitrary add-ons cited as "vehicle expenses." Both in our proposal to the City Council and our Petition to Initiate Rulemaking to the TLC, we modeled our demands for FHV driver protections around what we have already won for drivers in the yellow cab sector.

We should also note that it does not serve the interests of Uber, Lyft, etc. to be out, guns blazing, against this legislation. Given that the TLC is engaging in rulemaking to guarantee High Volume FHV driver earnings as mandated by the Council, Uber and Lyft themselves have a vested interest in stopping predatory lending practices which have further eroded the earnings of drivers whom the companies leave empty 42% of the time. Simply put, if Tower, American Leasing, FastTrack or Buggy want to charge exorbitant leases, leaving them under poverty, Uber, Lyft, et al will now have to subsidize them, it will no longer fall on the drivers.

Call for Amendments

- The legislation must create a class of licensees who can legally engage in leasing or financing vehicles to be used for For-Hire-Vehicle service. This would authorize the TLC to regulate good business standards the entities must meet in order to engage into agreements with drivers and continue to regulate more broadly and timely as the industry develops.
- The TLC should be required to carry out rulemaking in no less than 60 days from the date of the signing of the bill.
- The legislation should require current rates to be frozen.

Support for TLC Rulemaking

³ <https://www.timesunion.com/tuplus-opinion/article/For-this-ex-driver-Uber-gig-was-ticket-to-10819835.php>

While we are pleased that TLC Chair Meera Joshi has already proposed a number of our proposals for rulemaking, we seek the support of Council Members as we pursue regulations which await the passage of Int 1070:

1. For both Leased Vehicles and Driver Owned Vehicles, after deducting the week's lease, the leasing agent or the base may not leave the driver with less than 60% of the driver's income after collecting any outstanding lease balance.
2. Leased vehicles (when driver leases the vehicle for use from a TLC-certified leasing agent)
 - i. Lease cap of \$350 per week
 - ii. Lease must include:
 1. Use of car
 2. TLC diamond
 3. DMV TC plate
 4. Insurance
 5. Maintenance and service of the vehicle
 6. If the car is not available due to no fault of the driver, the lease must be pro-rated
 - iii. Security deposit of no more than one week's lease
 1. Deposit must be held in an interest-bearing account
 2. Minus only parking or red light camera tickets issued to the leasing agent for which the driver is responsible, the deposit and interest must be returned to driver within one week after the last week worked
3. Driver Owned Vehicles (when driver is leasing to purchase the vehicle from a TLC-certified leasing agent)
 - i. Leasing term cannot be longer than 156 weeks
 - ii. Lease cap of \$275 per week and the total payments cannot exceed \$42,900
 - iii. Lease must include:
 1. Use of car
 2. TLC diamond
 3. DMV TC plate
 4. Insurance
 5. Full vehicle purchase costs, including sales taxes
 - iv. Up to two drivers can contract and use the vehicle for hire
 - v. A vehicle leasing agent may offer full coverage insurance at no more than \$50 per week
 - vi. The deductible cannot be greater than \$250
 - vii. The leasing agent must reimburse the driver in full if the driver paid for the repairs of the car in case of any insurance proceeds
 - viii. Security deposit of no more than one week's lease
 1. Deposit must be held in an interest-bearing account
 2. Minus only parking or red light camera tickets issued to the leasing agent for which the driver is responsible, the deposit and interest must be returned to driver within one week after the last week worked in all circumstances, including if the driver cancels the contract early

- ix. Cancellation charge of the vehicle lease to purchase agreement between the leasing agent and the driver cannot carry more than a \$500 fee to the driver
- x. Deposit on vehicle purchase of no more than \$2,500, to be paid back to the driver on a weekly basis.
- 4. Company cannot force where the driver vehicle owner has the car repaired
- 5. If an insurance claim post-accident is handled by the company, the money must be forwarded to the driver vehicle owner if they paid for the repairs
- 6. If a leased car is not available for the driver due to no fault of the driver, then the lease must be pro-rated to the hours the driver is actually able to work
- 7. TLC regulation to strictly lay out additional charges
- 8. Make any Improper Charge actionable by the TLC
- 9. Make restitution provisions mandatory so drivers may always recover stolen wages after a violation has been found
- 10. Enable a private right of action for violations so that drivers may retain the right to file action in civil court to recover damages
- 11. Allow TLC prosecution for class recovery when its investigation finds the wage theft practice has been systemic and wide-spread
- 12. Forbid companies from retaliating drivers who make a good faith complaint

Int. 1069 (Levine): Addressing the problem of medallion owner debt and Int. 304 (Rodriguez): Create taskforce to study medallion taxicab values

While Int. 1070 offers economic protections to FHV drivers, Int. 1069 and Int. 304 address the crisis of foreclosures and bankruptcies crushing yellow cab medallion owner-drivers. We look at both bills together as there should be better coordination between the programs required by each of them. Several hundred owner-driver medallions are now in storage or have been foreclosed. Owner-drivers whose loans have been paid off or whose loans are not under water see the rapid 80% loss of medallion value as the loss of their retirement and downgrading of their borrowing capability. Owner-drivers who continue to work, even while their loans are under water, do so primarily to preserve a full-time income after having “purchased their careers.”

Nicanor Ochisor, who took his own life in March 2018, was nearing retirement after splitting shifts with his wife for three decades. A grandfather in his sixties, he saw no prospects of retiring with dignity, but instead, the twilight years of his life in poverty after he’d served the City for over 30 years behind the wheel. Two months later, Kenny Chow took his own life. Kenny’s last medallion mortgage payment had bounced. After losing his job in the jewelry industry, he entered the taxi business, using all of his savings and borrowed money to purchase a medallion to buy his job security. As the industry took an economic downturn, Kenny found it impossible to keep up with operating expenses, let alone living expenses, such as college tuition and healthcare for his family. Nicanor and Kenny’s stories reflect the two realities confronting owner-drivers across this industry. For every Nicanor and Kenny fighting desperation, Int. 1069 and Int. 304 can build the path to providing real material support.

Owner-driver expenses average \$5,500 to \$9,000 per month. Of the expenses below, only the medallion mortgage and Workers Comp insurance policy are variables, dependent on the loan amount and whether or not you drive alone, respectively. All other expenses are fairly typical

across the board. A bad accident where the car is totaled is also an unpredictable variable which could wipe you out financially and in further debt. Unlike years past, it's virtually impossible for owner-drivers to leverage their loans when purchasing new vehicles. And unlike FHV's, yellow cabs must be retired after six years, be brand new when first hacked up, and be limited to a model approved by the TLC.

Owner-Driver Expenses	Monthly	Annual
Medallion Mortgage (Loan of \$650,000)	5,028.00	60,336.00
Liability Insurance	578.00	6,936.00
Workers Comp	241.67	2,900.00
Tax Stamp	83.33	1,000.00
Medallion License	58.75	705.00
TPEP	50.00	600.00
Car Maintenance	666.67	8,000.00
Vehicle Purchase	590.00	7,080.00
SAVINGS in case of vehicle damage or replacement	500.00	6,000.00
TOTAL	7,796.42	93,557.00

Owner-drivers who lease to a second shift driver have also traditionally charged less than garages or agents. Today, the average \$90 lease per shift totals about \$28,000 per year. An owner-driver with the above expenses would have to gross (after the MTA tax, tolls and surcharge), \$65,477 per year, or \$1,300 per week over 50 weeks worked, just to break even with their operating expenses to avoid bankruptcy or foreclosure. To earn income so they and their family can survive, they would need to book another \$1,300 per week, or average \$344 per shift, minus shift expenses. Given fixed expenses and the downturn in ridership, it's been impossible for drivers to survive.

Meanwhile, there has not been consistent or industry-wide cooperation among lenders to lower interest rates or extend loan periods to alleviate some of the monthly burdens. Int. 1069 and Int. 304 are first steps in empowering the city to help alleviate debt and prevent foreclosures and bankruptcies.

Call for Amendments

- Under Int. 1069, require the city's Department of Finance to work jointly with the TLC in overseeing the study and developing a program
- Activate the study under Int. 1069 after the Taskforce under Int. 304 has issued its first report
- Require the exploration of grants and loans to alleviate debt and prevent foreclosures in both Intros
- Require the exploration of the ways the City of New York or federal government could use bonds or other means to directly assist and prevent foreclosures and bankruptcies in both Intros
- Make the Taskforce authorized under Int 304 continuous, no less than two years

Int. 1052 (Speaker): Health (and other) benefits for taxi and FHV drivers

In 2012, NYTWA organized for and won a vote by the TLC to establish a benefits fund for taxi drivers. The first of its kind, the financing for the Fund was to come from a deduction of six cents from every fare. In 2013, NYTWA and our partners won the administration of the Fund after a public Request for Proposals process. Taxi companies financed a lawsuit and the Court struck down the Fund down on the grounds that it required council legislation to empower the TLC's rulemaking. It was a moral failure which has wreaked economic consequences for a sector now desperate to retain and attract new drivers.

Over a ten year period, we organized services and events for free comprehensive screenings for 10,000 drivers. Our first health needs assessment in 2001 found 78% of the drivers were uninsured. A 2008-2009 study conducted by then NYC Councilman Eric Gioia found drivers to be uninsured at double the rate of fellow New Yorkers—52% of drivers reported having no coverage. Of taxi drivers who had both a doctor's visit and a stay in the hospital within the last twelve months of the survey—a group particularly in need of insurance and prescription drugs—41% were without insurance.

Taxi drivers, uninsured and vulnerable, also labor with almost universal rates of pain and stress. An ergonomics study funded by the National Institute of Occupational Safety and Health, researchers from the Occupational Health Internship Program (OHIP) found 76.3% of drivers experienced lower back pain, 39.2% had right shoulder pain, 41.7% had knee pain and almost half (48.2%) had right ankle pain.

Given that taxi driving is a high risk occupation, many of our members' health issues are a result of suffering violence on the job. A 2010 Department of Labor study found that taxi drivers are 33 times more likely to be killed on the job than other workers. Before that, in 2001 the DOL concluded drivers were 80 times more likely to be robbed. A 2010 OHIP study found further startling facts: 56% of drivers reported they had been called racial slurs; 35% reported that they had been assaulted while driving, with 17% having been assaulted within the past 12 months. Of those assaulted, 35% had been assaulted with a weapon. Only 5% of drivers injured in assaults filed a Worker's Compensation claim.

Over the past three years, the crushing poverty across the industry has led drivers to work longer hours per day and more days through the week. FHV drivers who always worked longer shifts, but with more down time, are now working even longer hours. There is little time for doctor's visits or time off due to injury or illness. We have members who have had broken legs who returned to work in their cast, still enduring chronic pain and fatigue. Drivers going straight from chemo sessions or dialysis to behind the wheel is simply unconscionable, even more so egregious in an industry with total value at over \$100 billion. Not only do the poverty and long hours keep drivers from taking care of themselves, the physical and emotional stress exacerbates health issues. A job that is prone to make you sick needs to be transformed at its root and services to keep workers whole and healthy need to be made a priority and codified. Int. 1052 sponsored by Speaker Johnson will make that finally possible.

The mental health crisis among drivers, with six drivers known to have committed suicide from November 2017 to July 2018 due to the financial despair from this economic crisis, was preventable. Drivers need livable income, financial safety nets, the prospect of retirement, access to care and immediate help to alleviate the crisis of poverty that plagues their daily lives.

Int. 1052 makes drivers' lives and health a priority and in the context of the complete bills package, recognizes that workers don't have to choose between livable incomes and healthcare; we can have both.

Call for Amendments

The bill needs to allow for flexibility in how the Fund is financed, and not limit the financing to a surcharge. The yellow cab meter starts with \$0.80 of taxes and surcharge. In January, congestion pricing fees are set to take effect only for yellow cabs and FHV's, but disproportionately affecting yellow cabs which have more concentrated trips in the surcharge zone. Another surcharge on top of the initial rates could drastically affect ridership and driver earnings. Furthermore, the industry still needs to stabilize. 120 days for the TLC to complete a study and conceptualize regulation would not be sufficient. We also believe strongly that other city agencies, the DOHMH or an office of the Speaker's office, should be required by legislation to work on the program. It is also imperative that this program not be used to help gig economy companies from escaping employer responsibilities by privatizing their contribution to Workers Compensation, Disability or Unemployment, etc. thereby giving them cover for their misclassification and an out from their direct financial responsibilities and depriving state insurance funds of important contributions. The study should be tasked with exploring these issues, and the legislation should provide that guidance.

- Allow for TLC to explore and establish through rulemaking other means to finance the benefits besides a surcharge
- While the list of benefits to consider is neither exhaustive nor prohibitive, we believe that retirement should be spelled out as a priority for further exploration
- Worker funds are traditionally run by worker organizations in order to ensure that the needs of the workers are not shortchanged with limitations in financing or legal limitations
- Prohibit entities with a financial relationship with any group of companies required to contribute to the fund, and excluded from receiving coverage, from being eligible to administer it
- Require the DOHMH (Department of Health and Mental Hygiene), and/or an office of the Speaker's Office, to hold responsibility along with the TLC to develop the program
- Allow the TLC and partnering agencies up to 365 days to conclude its study and rulemaking proposal

Int. 1079 (Richards): Office of Inclusion within the NYC TLC

Race-based and other bias-based refusals and equitable 5-borough service, both inter-borough and intra-borough, have plagued this industry for decades. In July, after meetings with several Council Members, including Councilman Richards, and with the TLC, NYTWA submitted a 9-point Civil Rights Initiative. Int. 1079 already legislates around a number of the initiatives, including a peer-to-peer program, recruitment of drivers from underrepresented and underserved communities, public reporting and trainings. In issuing our CRI, we asked the Council to allow us as a workforce to be contributors to transforming the inequities, and not be alienated from discussions of justice and fairness in our city. Throughout the past twenty years, as we as an organization have sought to address these systemic issues, we were met mostly with punitive measures. In 2011, following our support of the chartering of the green cab sector as a market response to the economic underpinnings of why yellow cabs restricted to street hails do not cruise in neighborhoods with still-nascent street hail clusters, we were met with massive opposition from within the industry. But in the public dialogue, it's drivers who remain

scrutinized and even blamed for service failures, not just for individual acts of bias. Int. 1079 allows drivers a voice and gives us that chance to fairly partner and, when applicable, even lead on these issues. We also want to commend Chair Joshi and her leadership in addressing these issues, engaging us thoughtfully and fairly, and helping lay the foundation for us to be heard by civil rights activists and Council Members who have brought up these issues.

Making transportation access and service free of bias to individuals and geographic communities is a hallmark of civil rights work across the world. Studies have increasingly shown that one's ability to access mass transit or taxi service can determine what job or education or health care they can access, and class mobility in general. Meanwhile, transportation workers through the decades and across the globe have played a vanguard role in fighting for civil rights, both racial justice and economic justice. The Office of Inclusion can transform the discussion around race based refusals and unequal service in our city by balancing driver trainings, punitive measures, and changes in the structure of taxi and for-hire service. It is also critical that measures such as data collection are in place now, as the App based market becomes dominant, to ensure that it grows with these mandates on equal service. Studies show that cancellations are more likely if the passenger is perceived to be Black or a person of color. The companies have not been forthcoming in other parts of the country on data with regards to service to neighborhoods with more poverty, and have opposed almost universally attempts to make it compliant with accessible service.

The Office must also act as a resource for drivers who are largely people of color and majority Muslim or Sikh, subject to bias both due to race and religion. The bias can lead to verbal harassment or assault on the job, as well as complaints without grounds to the TLC which affect a driver's ability to keep their living. The demoralization from being subject to such racism on a daily basis, and the isolation from a job like driving, also lead to high rates of stress and often depression among drivers. We have sought mental health services for members traumatized from hate crimes, as well as those who reached a breaking point from the constant daily alienation. The Office of Inclusion should also be tasked with being a resource for drivers.

We believe we can build an industry that is forward thinking and cutting edge, not just doing less bad. And without drivers – like the health fund or corporate transparency – this would be impossible. Int 1079 is a starting point to change that.

Call for Amendments

- Require the TLC to promulgate rules on the core features which taxi e-hail services must be mandated to adopt:
 1. Fare Pre-payment
 2. Navigation
 3. Automatic updates on airport lines when the taxi is near either NYC airport
 4. Cancellation fees for passengers
- Require data from High Volume App Companies with regards to cancellations, accessibility and service by neighborhood
- Allow for complaining witnesses to enter into mediation with a driver respondent in cases of refusal allegations
- Require the New York City Human Rights Commission to partner with the TLC on establishing and providing oversight of the Office of Inclusion

Int. 1062 (Grodnychik): Risk of loss with respect to digital payments in the taxi and for-hire vehicle industries And Int. 1096 (Diaz): Require HV FHVs to provide info on charges not registered with TLC

Int. 1062 and Int. 1096 speak to basic economic fairness in an industry where the workers have borne all of the risks over the past almost four decades. Being forced to lose income over chargebacks, when you are not the merchant account holder with access to concessions from the credit card processor, is simply unfair. Bases and TPEP vendors⁴ in the FHV and yellow cab sector, respectively, hold that economic power and should be the entities held accountable under this legislation. Having just one entity – the vendor – as opposed to the medallion owner, agent and / or broker, will also more easily allow for enforcement.

The chargebacks are much more consequential than drivers getting nickel and dimed over fares here and there. How much you make throughout the shift determines how many hours you might work that day or that week. Drivers write out bills assuming the money in their account is staying in their account and then to have it be taken away from them can end up in bounced checks and cash flow shortages. The chargeback deductions sometimes occur three months later. Across the industry, drivers bear the costs of gasoline, the vehicle, insurance, maintenance, repairs, and the impact of street closures and downturns. Not burdening them with chargebacks is a small relief the bases and vendors can extend.

Int. 1096 mandates transparency which is critical to stopping wage theft. A May 2017 report by the Economic Policy Institute found 2.4 million workers in the 10 most populous states in the country suffered minimum wage violations – the most common form of wage theft for employees - a collective loss of \$8 billion annually.⁵ In the taxi and FHV industry, wage theft occurs in the form of unlawful deductions from driver incomes.⁶ The transparency aimed at protecting drivers must also extend to public disclosures by the High Volume App Companies on policies and frequency of deactivation and all documents which cover deactivation and earnings policies, including agreements and contracts with organizations funded by the companies, including entities they assign as driver representatives. Int 1096 can further ensure that the TLC is empowered with full prosecutorial powers and require reporting both to assess progress and effectiveness, as well as to determine resources necessary for the TLC's Driver Protection Unit.

⁴ TPEP, Taxicab Passenger Enhancements Project, the program which mandates credit card readers and other technology in the taxicab; the vendor must be meet TLC licensing requirements

⁵ <https://www.epi.org/publication/employers-steal-billions-from-workers-paychecks-each-year-survey-data-show-millions-of-workers-are-paid-less-than-the-minimum-wage-at-significant-cost-to-taxpayers-and-state-economies/>

⁶ Protecting drivers against wage theft is one of the core campaigns of NYTWA. We have won back \$2.7 million in stolen wages for yellow cab drivers, and were instrumental in the creation of the TLC's Driver Protection Unit in 2013 and their agreement with the Office of the State Attorney General to jointly prosecute claims. NYTWA's members' case in federal court against Uber also lead to the company paying back \$85 million to drivers from whom they unlawfully assessed a commission on the sales tax and surcharges. As *The New York Times* reported (<https://www.nytimes.com/2017/06/01/business/uber-driver-commissions.html>) and (<https://www.nytimes.com/2017/05/23/business/economy/uber-drivers-tax.html>), the pay-out, in response to NYTWA's members' case, was an attempt by Uber to admit to the lesser violation in our claim (wrongfully charging a commission fee on the sales tax and surcharge), with the hopes of burying the larger wage theft violation (taking the tax and surcharge out of driver pay.) Our members continue to seek full restitution as the case proceeds.

Call for Amendments

- Specify that TPEP vendors are responsible for chargebacks in the yellow cab industry
- Require public disclosures by the High Volume App Companies on policies and frequency of deactivation and all documents and agreements which cover deactivation and earnings policies
- Enable a private right of action for violations so that drivers may retain the right to file action in civil court to recover damages
- Allow TLC prosecution for class recovery when its investigation finds the wage theft practice has been systemic and wide-spread
- Require public reporting by the Driver Protection Unit on the number of claims filed by drivers, number of summonses issued, settlements or disposition, and amount recovered

Int. 1068 (Levin): Financial education for taxi and FHV drivers And Int. 1081 (Salamanca): Driver assistance centers

We appreciate that Intros 1068 and 1081 are efforts on the part of the Council to ensure drivers are armed with financial literacy and mental health resources so they may be empowered to make their best decisions and find help when it is needed. Further, corporations and the regulators that wield so much control over drivers' economic realities can be better held accountable.

Call for Amendments

- Int. 1068 should specify the TLC (not the department of city planning) provide the list of languages
- The Department of Finance and other such agencies should be required to partner with the TLC on the program
- The TLC's project should not rest in the Driver Protection Unit, but either the Office of Inclusion or another department, so the prosecutorial resources of the DPU are not diverted

We thank you once again for heeding our call for action and legislating around our demands.

Respectfully Submitted,



Bhairavi Desai, Executive Director
New York Taxi Workers Alliance

Cc: Honorable Mayor Bill DeBlasio
Honorable Members of the City Council of the City of New York
Honorable TLC Chairperson Meera Joshi