

PROPOSITION **22** EXEMPTS APP-BASED TRANSPORTATION AND DELIVERY COMPANIES FROM PROVIDING EMPLOYEE BENEFITS TO CERTAIN DRIVERS. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

The text of this measure can be found on the Secretary of State’s website at voterguide.sos.ca.gov.

- Classifies drivers for app-based transportation (rideshare) and delivery companies as “independent contractors,” not “employees,” unless company: sets drivers’ hours, requires acceptance of specific ride or delivery requests, or restricts working for other companies.
- Independent contractors are not covered by various state employment laws—including minimum wage, overtime, unemployment insurance, and workers’ compensation.
- Instead, independent-contractor drivers would be entitled to other compensation—including minimum earnings, healthcare subsidies, and vehicle insurance.

- Restricts certain local regulation of app-based drivers.
- Criminalizes impersonation of drivers.

SUMMARY OF LEGISLATIVE ANALYST’S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Minor increase in state income taxes paid by rideshare and delivery company drivers and investors.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

App-Based Rides and Delivery. Some companies allow customers to hire rides or order food for delivery on a phone app. These companies are often called rideshare and delivery companies. Most large rideshare and delivery companies are headquartered in California. In total, these companies are worth about as much as Ford, General Motors, and Fiat Chrysler combined.

Rideshare and Delivery Companies Hire Drivers as Independent Contractors. An independent contractor is someone who does work for a business but is not an employee of the business. Drivers for rideshare and delivery companies choose when, where, and how much to work. Drivers use their own cars and pay their own expenses.

Most Drivers Work Part Time. Most drivers work part time and many drivers only work for a short time or only drive occasionally. Rideshare and delivery companies pay drivers a share of the fare or delivery charge customers pay for app-based services. Drivers spend about one-third of their time waiting for rides and deliveries and are not paid during this time. Most drivers probably make between \$11 and \$16 per hour, after accounting for waiting time and driving expenses.

The State Says Rideshare and Delivery Companies Must Hire Drivers as Employees. The state recently passed a law that limits the ability of companies to hire workers as independent contractors. The state Attorney General says the law means rideshare and delivery companies must hire drivers as employees. The rideshare and delivery companies do not agree that the new state law makes their drivers employees. The companies continue to hire drivers as independent contractors. The state Attorney General recently sued two rideshare companies to force them to hire drivers as employees. If the courts agree with the Attorney General, the companies will have to hire drivers as employees.

As Employees, Drivers Would Get Standard Benefits and Protections. As employees, drivers would get standard job benefits and protections that independent contractors do not get. For example, employees must be paid at least a minimum wage plus extra pay for overtime. Employees also must be allowed to take breaks and take paid time off if they are sick. At the same time, as employees, drivers would have less choice about when, where, and how much to work.

PROPOSAL

Makes Drivers Independent Contractors. This measure makes app-based rideshare and delivery drivers independent contractors. The new state law that limits the ability of companies to hire independent contractors would not apply to drivers.

Gives Drivers Certain Benefits. This measure requires rideshare and delivery companies to provide certain benefits:

- **Earnings Minimum.** This measure requires companies to pay 120 percent of the local minimum wage for each hour a driver spends driving, but not time spent waiting.
- **Health Insurance Stipend.** For drivers who normally work more than 15 hours per week (not including waiting time), this measure requires that companies help pay for health insurance.
- **Pay For Costs When a Driver Gets Hurt on the Job.** This measure requires that companies pay medical costs and replace some lost income when a driver is injured while driving or waiting.
- **Rest Policy.** This measure prohibits drivers from working more than 12 hours in a 24-hour period for a single rideshare or delivery company.
- **Other Requirements.** This measure prohibits workplace discrimination and requires that companies: (1) develop sexual harassment policies, (2) conduct criminal background checks, and (3) mandate safety training for drivers.

Limits Local Government Ability to Set Additional Rules. This measure limits the ability of cities and counties to place additional rules on rideshare and delivery companies.

FISCAL EFFECTS

Whether rideshare and delivery drivers are employees or independent contractors is still being decided in the courts. The fiscal effects below assume that the courts agree with the state that drivers are employees under the new state law.

Lower Costs and Higher Profits for Rideshare and Delivery Companies. This measure allows rideshare and delivery companies to hire drivers as independent contractors instead of employees. The companies would not have to pay the costs of providing standard employee benefits and protections, which usually make up 20 percent of employee costs. This would allow the companies to charge lower fares and delivery fees. With lower prices, customers would take more rides and place more orders. This could increase the companies' profits. Higher profits would increase the companies' stock prices.

Drivers and Stockholders Would Pay More Income Taxes. Because people would take more rides and place more orders, drivers as a group would earn more income. This means state income taxes paid by drivers would increase. Californians who own rideshare and delivery company stock also may earn more when they sell the stock. They would pay state income taxes on these increased gains. The amount of increased state personal income taxes paid by drivers and stockholders is unknown, but likely minor.

SUMMARY OF FISCAL EFFECTS

This measure would have the following fiscal effect:

- Minor increase in state income taxes paid by rideshare and delivery company drivers and investors.

Visit <http://cal-access.sos.ca.gov/campaign/measures/> for a list of committees primarily formed to support or oppose this measure.

Visit <http://www.fppc.ca.gov/transparency/top-contributors.html> to access the committee's top 10 contributors.

If you desire a copy of the full text of this state measure, please call the Secretary of State at (800) 345-VOTE (8683) or you can email vigfeedback@sos.ca.gov and a copy will be mailed at no cost to you.