



Understanding the Ballot Question That Could Reshape Rideshare and Gig Driving

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EXECUTIVE SUMMARY

How should Massachusetts classify drivers who work for Uber, Lyft, DoorDash, and other gig driving platforms? As employees? Independent contractors? Or maybe something in between?

It's a big, contentious question, and this November Massachusetts voters may get their say as part of a big-money ballot initiative pressed by leading rideshare and delivery companies.

The initiative would give gig drivers a number of new and valuable benefits, but it would also deny them the full suite of rights and protections granted to regular employees.

Opposing the ballot question, however, won't necessarily stop change from coming. The Massachusetts attorney general has brought a separate lawsuit against Uber and Lyft, arguing that drivers must be treated as regular employees under current law — a shift that would have major implications for drivers and users alike.

To help voters understand these issues — and give legislators a chance to pursue their own solutions — we at the Center for State Policy Analysis have assembled this nonpartisan analysis.

similar ballot question in California along with legal and regulatory challenges around the world.

We find that:

- This ballot question is unusual because it lacks a definitive “keep the status quo” option. A “yes” vote introduces a new framework for gig drivers; a “no” vote is effectively a bet on the ongoing lawsuit.
- While a “yes” vote would give gig drivers some valuable new protections — including a minimum pay guarantee and paid sick leave — drivers would still lack many benefits traditionally associated with employment, including overtime, unemployment insurance, retirement savings, and reimbursement for business costs.
- Both the lawsuit and the ballot question are targeted at a small part of a bigger challenge, which is the lack of clear rules and protections for gig workers at large. (The ballot question focuses exclusively on gig drivers; the lawsuit is even narrower, targeting just Uber and Lyft.)
- There is still time for lawmakers to resolve this situation through legislation, without need for a ballot question or lawsuit.
- This battle in Massachusetts is part of a broader fight over the status of gig drivers and the gig economy, a fight that spurred a

DRIVERS AND THE GIG DRIVING INDUSTRY

Rapid, torrid, dramatic — these are the kinds of words needed to describe the rise of ridesharing, app-based delivery, and other gig driving services. As recently as 2010, there was no Uber; today, app-based ride-hailing is a central part of the urban experience, so familiar that its newness barely registers.

Cities and communities have enjoyed some real benefits. Most directly, gig platforms have made travel easier, particularly in peripheral and marginalized urban areas where taxis were often hard to find.

Gig driving has also changed the economic landscape, smoothing routes to restaurants and other amenities in neighborhoods poorly served by public transit. And while there are certainly downsides, including the added pollution and roadway congestion from circling and idling cars, the gains for consumers are real and valuable. Best as researchers can measure, for every \$1 spent on a rideshare, consumers get a bundle of benefits [valued at around \\$1.60](#).

Of course, these gig-powered advances have been made possible by an ever-replenishing army of gig drivers.

Up-to-date numbers are hard to come by, but in Massachusetts alone we're talking about tens of thousands of drivers across a range of platforms from ride-hailing to restaurant and grocery delivery.

And because there's a lot of turnover in this industry, the number of folks who have at some point worked as gig drivers is vastly larger.

Looking at delivery apps alone, the Pew Research Center estimates that [7 percent of adults nationwide](#) have made at least one gig delivery. That translates into over 300,000 people in Massachusetts. And gig work is more prevalent in some communities because it attracts a disproportionate

number of lower-income and Hispanic workers (most of them men).

For a lot of folks, gig driving is a short-term pursuit, a way to earn extra income in your spare time or compensate for the temporary loss of a more stable job. Roughly [two-thirds of all gig workers](#) consider it a "side job," and a [separate survey of Uber drivers](#) found that 60 percent also worked in a traditional job or were students.

Note, however, that this leaves roughly one-third of gig workers who treat it as their main occupation, often working long hours across multiple platforms to amass a livable income.

Looking just at the rideshare system, it seems highly dependent on these "elite" or committed drivers. One national analysis found that 57 percent of the total work is done by [just 10 percent of drivers](#).

AMBIGUOUS POSITION OF DRIVERS

ARE DRIVERS EMPLOYEES?

From the beginning, gig drivers have been treated as independent contractors rather than employees, with important implications for their earnings, benefits, and legal protections.

Employees are entitled to a system of basic benefits and protections, thanks to decades of pressure from worker advocates and their legislative allies. This includes a minimum wage, overtime pay, collective bargaining, earned sick leave, anti-retaliation protections, coverage of business costs (like fuel and car insurance), workers comp, unemployment insurance, and Social Security and Medicare contributions from employers.

Gig drivers haven't generally gotten these benefits and protections.

There are some plausible reasons for this, as gig work really does differ from traditional employment in a number of ways.

- Gig drivers set their own hours, free of any central scheduling or weekly expectation. If they want to work 20 hours one week and two hours the next, that's fine — they don't need to clear it with a boss.
- Gig drivers are allowed to work for multiple, competing firms — and they often do. One survey of Uber workers found that [60 percent work for other platforms](#); a separate survey of DoorDash workers found the number was [about half](#).
- Gig drivers also have the right to turn down individual job requests. (Note, however, that drivers often have to make this decision without knowing all the details about the nature and location of the job; this information is generally withheld to prevent discrimination.)

And yet, while this kind of autonomy does distinguish gig drivers from typical employees, they're not exactly like independent contractors, either.

Independent contractors usually sell their services like a business does: seeking out jobs, negotiating contracts, establishing a trusted brand. Whether it's a handyman, life coach, or freelance architect: in each case the key factor is that workers are building out their own networks of partners and clients.

Gig workers don't have business relationships with users, passengers, or companies independent of the app. Among other things, they don't set their own prices or compete for a client roster.

The result has been a kind of third-way limbo, where gig drivers get the flexibility to set their own schedules but miss out on both the entrepreneurial potential of real independent contractors and the robust protections afforded to employees.

ARE DRIVERS PAID WELL?

Research on driver pay has shown that while gross earnings can be decent — perhaps as high as \$20-\$30 per hour — drivers incur a lot of costs that reduce net income.

The key thing to understand is that \$1 in gig earnings is not the same as \$1 on a traditional paycheck.

Drivers shoulder a number of expenses that typical employees don't. They have to pay the full cost of Social Security and Medicare taxes. And more important, they are responsible for the costs of driving, which include everything from fuel to insurance to maintenance. Non-gig employees who drive for work are entitled to reimbursement for such costs.

Attempts have been made to account for these and other expenses unique to gig workers. Some of these studies find that take-home pay [still crosses \\$20 per hour](#); others suggest an effective pay floor [below \\$5 an hour](#) in Massachusetts.

But there are also some pluses for gig drivers.

Tips can make a big difference, for instance, and are often excluded from these analyses.

There are tax benefits as well, including deductions for the costs of driving. And some drivers may be underreporting their income. (Until recently, [IRS rules](#) limited the federal government's ability to double-check the accuracy of tax filings from drivers.)

ARE DRIVERS HAPPY?

Judging from surveys, gig workers generally seem happy with the current setup. [Over three-quarters told Pew](#) they were either "somewhat positive" or "very positive" about their experience.

More concretely, large majorities report that they are treated fairly when it comes to pay and assigning jobs. And when asked what they appreciate most about their work, [drivers often cite](#) the flexibility it affords and the control they have over their schedules.

Note, however, that there's a subtle problem with these surveys: they reflect the views of people who have already chosen to participate in the world of gig work.

To see what might go wrong with this approach, consider asking professional skydivers if they find skydiving scary; many of them will presumably say “no” but that doesn’t mean skydiving is mundane. It means you’ve selected a group of people particularly inured to the fear.

Missing from the surveys of gig workers, in other words, are the views of people who won’t drive under the current rules — because they wouldn’t be happy doing so. But there may be a whole universe of folks eager to drive in a system with different norms and protections.

THE BALLOT QUESTION

A SUMMARY

At a high level, the proposed ballot question has three main features:

- 1) It **cements gig drivers’ status as independent contractors** rather than employees. This would hold both for traditional ridesharing (e.g., Uber and Lyft) as well as app-based delivery (e.g., DoorDash.)
- 2) It provides gig drivers with **a number of new, baseline employment protections**, including a minimum pay rate, fixed reimbursement for vehicle usage, paid sick time, injury protection, and health care stipends for workers with sufficient hours.
- 3) It **leaves out other traditional employment protections** and benefits such as overtime pay, unemployment insurance, full reimbursement of business costs, and employer-side payroll tax contributions for Social Security and Medicare.

THE X FACTOR: PENDING LITIGATION

Even as this ballot question wends its way to voters, it is being shadowed by a separate lawsuit against Uber and Lyft. And the two efforts could interact in significant ways.

In the lawsuit, the Massachusetts Attorney General argues that rideshare workers are already employees under state law — meaning that Uber and Lyft cannot treat them as independent contractors.

The stated reason is that these workers don’t meet the clear legal criteria for who qualifies as an independent contractor in Massachusetts, namely that they must:

- 1) Be free from control and direction in the performance of their work.
- 2) Offer a service outside the normal course of business for their client.
- 3) Perform the same kind of work that they do for other clients.

And while it’s always difficult to predict the outcome of legal issues — especially with defendants as well-resourced as Uber and Lyft — rideshare drivers don’t naturally seem to pass this three-part test. At the very least, they seem to do work that is central to the business models of Uber and Lyft, which violates No. 2. (When challenged on this point in earlier lawsuits, Uber and Lyft maintain that they are [technology companies that help connect riders and drivers](#); they are not in the business of providing rides.)

But it’s not just the outcome of this case that matters; it’s also the timing, which is largely unknown. Given the likelihood of appeal and other delays, the attorney general’s suit probably won’t be resolved before November, meaning voters will go to the polls with this uncertainty still hanging over the ballot.

MEANING OF A “YES” VOTE

Often with ballot questions, a “yes” vote is a vote for change; but in this case it would uphold key elements of the status quo.

To begin, a “yes” vote would moot the attorney general’s lawsuit, securing drivers’ status as independent contractors regardless of the three-part test in current law.

Beyond that, it would also introduce some new, baseline protections for drivers providing ride-share, delivery, and other gig-based services. These include:

- **A guaranteed hourly wage set at 120 percent of the state's minimum wage.** If the ballot initiative passes, this would provide drivers with a pay floor of \$18 an hour (120 percent of what will be the state's \$15 minimum wage). This is an improvement over current law — which has no such floor — but perhaps not as generous as it seems.

The pay floor only applies to time when drivers are actively engaged in a task; there is no reimbursement for “unengaged” time, when drivers are logged in but not making trips (they could be waiting for their next gig, moving to a more promising locale, or driving for a competitor.)

Moreover, drivers' wages will still be eroded by costs that don't generally apply to other workers such as employer-paid payroll taxes.

- **A 26-cent reimbursement for every mile driven.** This, too, is a meaningful improvement from current law but with several caveats.

The reimbursement rate is loosely meant to reflect the marginal cost of fuel, maintenance, and depreciation.

However, it is well below the current IRS standard of 58.5 cents per mile, which covers a broader range of ownership costs; and again it only applies when drivers are actively engaged in tasks.

- **Drivers would earn paid sick time,** at least one hour for every 30 hours of “engaged” time. And they'd be eligible for medical and family leave under existing Massachusetts law.
- **Regular drivers could receive stipends to purchase health insurance.** Drivers who average at least 15 hours per week for a given company would get a partial stipend — while

those who average 25 hours per week would get a larger one (pegged to the average cost of plans available through the state's Health Connector.)

The guiding idea is that drivers who work this consistently are more like regular employees and merit some kind of health care benefit, though it's complicated by the fact that they have to work these hours for a single company.

Even committed drivers who work across multiple platforms — as is extremely common — could easily find themselves missing out on the benefit. For example, if you averaged 14 hours per week for Uber, 14 hours for Lyft, and 12 hours for DoorDash, then you wouldn't be eligible despite your full-time schedule.

- **Rideshare and delivery companies would purchase accident insurance for their drivers,** to be paid out when drivers are injured or killed on the job. This would function as a kind of ersatz workers compensation system.
- **Drivers would get legal protection against wrongful termination based on race, sex, sexual orientation, or other protected categories.** Terminated drivers would also have the opportunity to appeal, though the appeals process lacks clear standards, leaving a lot of authority in the hands of companies.

If the ballot question passes, some traditional employers who've been reluctant to hire gig drivers — because of the legal uncertainty — might expand this part of their workforce. After a similar initiative in California in 2020, several companies [openly considered shifting to gig drivers](#) or reclassifying workers as independent contractors.

Taking a step back, it's worth noting that other cities and states have tried to thread this same needle, providing additional protections to gig drivers without making them employees.

For several years, New York City has guaranteed a minimum pay rate for Uber and Lyft drivers. More

recently, [lawmakers in Washington state](#) guaranteed gig drivers a minimum pay rate along with paid sick leave.

MEANING OF A “NO” VOTE

A “no” vote is essentially a bet on the attorney general’s lawsuit, meaning that gig drivers’ long-term status would ultimately be determined by the courts.

If courts declare Uber and Lyft drivers employees, duly entitled to all the standard rights and protections, that is likely to spark dramatic changes for the whole landscape of gig driving.

- Drivers will likely reap additional compensation, in the form of a true minimum wage, overtime, reimbursement for costs related to driving, and access to basic benefits like unemployment insurance.
- Costs will rise, as companies are forced to cover this additional compensation.
- Some part of the additional cost will be passed to consumers in the form of higher prices.
- The gig driving industry as a whole will shrink somewhat, as higher prices reduce demand for rides and thus the need for drivers.
- Drivers will likely lose some of their current ability to set their own schedules and work across platforms, though it’s hard to say exactly what the employment model will look like.
- One possibility is that “elite” drivers who already work long hours could serve as the backbone for a new, more traditional workforce, with less reliance on folks seeking to earn extra income on the side.
- More generally, rideshare and gig delivery companies could follow the path of traditional companies who need a scalable workforce: using a mix of full-time workers and part-timers with short shifts and variable weekly hours. This is the approach favored by demand-sensitive business-

es like Walmart and Starbucks, and it’s known to create work-life challenges for employees who lack consistent schedules.

While it would be helpful to compare the likely impact in Massachusetts to other states and regions, very few have successfully forced ride-share companies to reclassify their workers.

California courts tried — but were blocked by a voter referendum similar to our coming ballot question. Several European countries have also pressed for reclassification, but companies have fought back in various ways (and European labor laws are also quite different).

Of course, all this assumes that the attorney general’s lawsuit will succeed. And while many legal experts consider that the most likely outcome, it is not guaranteed.

A failed lawsuit, coupled with a “no” vote on the ballot question, would leave gig drivers in their current situation, with very few employment protections.

BROADER IMPLICATIONS

Whatever voters decide, the Massachusetts ballot question is not broad enough, or comprehensive enough, to resolve the issue of how we should treat the growing cohort of gig workers.

That’s because gig work is not just about driving, delivery, and ridesharing. It now includes app-based services for dog-walking (Rover), handymen (TaskRabbit), house cleaning (Tidy), therapy (Talkspace), and more.

Currently, the US system of worker protections and employee benefits largely addresses traditional employee-employer relationships, compassing workers who were hired to work for a single company, with a particular pay grade, hourly expectations, and sometimes the protection of a union (or the credible threat of a union drive.)

What's needed is a model of rules and protections built with the gig economy in mind. And that's not really what's on the ballot.

Take benefits, for instance. Neither the ballot question nor the lawsuit touches on the question of how gig workers can access some of the more valuable employer-provided benefits like retirement savings accounts, which surveys suggest are [especially important to gig drivers](#).

Even at traditional companies these types of benefits are often treated as perks for full-time employees, with eligibility thresholds that require a certain number of hours and a certain level of tenure.

So even if all gig workers were deemed employees, they would likely struggle to meet common cut-offs for benefit eligibility. (As an example, the Affordable Care Act only requires employers to offer insurance to employees who work at least 30 hours per week.)

LEGISLATIVE OPTIONS

A few hurdles remain before we know whether this proposal will appear on the ballot, including a new legal challenge and a final round of signature-collecting in late spring and early summer.

More important, there's still time for the Legislature to work with supporters and opponents of the ballot question to establish new rules for gig drivers and gig workers, effectively eliminating the need for both the ballot question and the lawsuit.

And even if timely intervention proves impossible, lawmakers will retain the power to amend, update, or overrule the results of the ballot question, and the lawsuit, too, by clarifying the employment status of gig drivers and enumerating their rights and protections.

If they are open to intervening, there are some workable approaches. Among other things, the

ballot question contains a number of elements that could be tweaked to make the proposal more (or less) generous to drivers.

- Guaranteed pay could be set at a level higher than 120 percent of the minimum wage, to better reflect the amount of uncompensated time that drivers spend waiting for their next gig.
- Likewise, the thresholds for health care stipends could be adjusted to reflect the fact that drivers work across platforms. Otherwise, some drivers working long hours may fail to qualify.
- Companies could be required to pay their share of Social Security and Medicare taxes on behalf of gig workers, just as traditional employers do.
- The state could oversee a centralized benefit system for gig workers — building on proposals in [House bill 1234](#). Funding from companies would provide benefits like unemployment insurance and matching 401(k) contributions.

What makes some of these changes tricky is that they would require consistent tracking of hours across companies, so a gig driver working 10 hours for Uber, 20 for Lyft, and 10 for DoorDash would be properly credited for a full-time schedule. Doing so would raise a number of real challenges, including the ability to identify and incorporate new gig platforms as they arise.

The Legislature's authority on this issue never expires, so in theory it could intercede next year or the year after. But with the lawsuit advancing and the ballot question approaching, the time seems ripe for a thoughtful solution.

CONCLUSION

Gig drivers are a growing force in our economy: providing rides, shuttling groceries, and delivering restaurant meals. But their legal status remains uncertain: Are they employees? Or independent contractors?

A “yes” vote on the November ballot question would affirm their status as independent contractors (ending the attorney general’s lawsuit) while also providing new, minimal protections.

By contrast, a “no” vote would let courts decide whether Uber and Lyft drivers should be treated as employees under existing law.

We at the Center for State Policy Analysis do not take a position on this question — or any ballot initiative — but we recognize the high policy stakes and urge voters and lawmakers to consider all angles and options in order to find the best solution.



Contributors

In assembling this report, the Center for State Policy Analysis was aided by a number of experts in economics and elsewhere. However, the final contents reflect our best judgment and are not necessarily endorsed by reviewers.

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