

Washington state just changed the gig work game, but national unions are pushing back

By Eleanor Mueller

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An unlikely coalition of two corporate executives, a local union official and a progressive state lawmaker joined forces to push the nation's first consensus-built legislation setting standards for gig workers — in this case, Uber and Lyft drivers — across the finish line in Washington state a month ago.

Now, the race is on to see whether stakeholders in other states will be able to recreate — or even be amenable to — the women's success as policymakers across the country scramble to regulate what has swelled into a multibillion-dollar industry amid a vacuum of federal action.

Already, there are speed bumps. Perhaps the biggest: The nation's most powerful union officials, including AFL-CIO President Liz Shuler and Teamsters President Sean O'Brien, have dug in against the measure, which steers clear of the divisive issues of employee classification and collective bargaining.

“Washington state’s model is not the template for the rest of the country to follow,” Shuler said. Other proposals would do a better job “allowing for protections for workers but not compromising the bedrock principles of worker classification.”

Nearly 1 in 6 Americans have earned money using a gig platform, [according to Pew Research Center](#). Three in 10 who have done so recently say it was their main job in the last year.

Yet there is no comprehensive federal law governing the business model — punting the issue to the states, where businesses, unions and lawmakers must duke it out with varying levels of success.

Congressional Democrats still hold aloft [the Protecting the Right to Organize Act](#) as their gold standard for expanding benefits for gig workers. But that bill, which would give independent contractors the right to organize, remains stalled in the Senate.

“The federal government has not been able to do much on any issue we care about,” Washington state Rep. Liz Berry, the freshman Democrat who sponsored the bill, said. “So for me, the state is where it’s at. And we’re proving that to be true here.”

Fifty-seven percent of Americans think that ride-hailing drivers deserve greater legal protections, Pew found.

Gov. Jay Inslee (D-Wash.) signed [Berry’s legislation](#) into law March 31 following months of intense and, at times, hostile negotiation between Berry, Uber executive Ramona Prieto, Lyft executive Jen Hensley and Teamsters 117 Vice President Brenda Wiest.

“Anyone leaving a good negotiation table feels a bit beat up,” Prieto, who heads public policy for Uber in the western U.S., said. “This legislation is a reflection of real compromise, and we all had to grow new muscles in the process.”

A short legislative session combined with the threat of a possible ballot initiative akin to California’s Proposition 22 lent urgency to the talks. The employer-backed California measure, which cemented ride-hail drivers and other gig workers as independent contractors, is currently tied up in court amid opposition from unions and their allies.

“The companies were threatening a ballot initiative,” which “was the impetus,” Berry said. “The labor movement wanted to prevent bad things from happening,” and “companies really wanted to show the world they could do a deal in a blue state like Washington.”

“We had the opportunity to run a ballot initiative in Washington state and potentially get a different deal for drivers,” Hensley, who heads government relations for Lyft, said. “We wanted a legislative solution.”

In addition to providing drivers with paid sick leave and workers’ compensation, the measure also establishes a minimum rate of \$3 per trip, \$1.17 per mile and \$0.34 per minute.

That will mean hefty raises for drivers across the state. Those working near Vancouver, Wash., will see boosts to mileage pay of more than 65 percent; those based out of Spokane, Wash., will see increases of 20 percent, Berry said.

As a result, more drivers will be able “to survive, pay the bill of their families, and keep their job,” said Ahmed Mahamud, an organizer for Teamsters 117 and its affiliate, Drivers Union, who has been driving for Uber and Lyft in the state since 2017.

The legislation also creates a means for drivers to appeal their removal from the ride-hailing apps, which Wiest called the “substance of the actual policy” and said has been a priority for the state’s drivers and their allies for years.

Beyond pay, “deactivation was the biggest issue,” Drivers Union spokesperson Kerry Harwin said. “People can lose their jobs for nothing or next to nothing.”

“I’ve heard stories over and over again of drivers with the union who get hit by another car” and “find themselves deactivated,” Harwin said. “Now, the car that they took out a loan in order to be able to drive Uber is out of commission.”

The bill forbids cities and counties from regulating gig work within their own borders: a big win for Uber and Lyft, for whom a patchwork of policies would have complicated their operations, and acceptable to local union officials because “every city in Washington has had the opportunity to regulate and provide more benefits to drivers for 10 years now, and there has been nothing that has actually happened on that,” Harwin said.

“From our perspective, the likelihood that all of a sudden Spokane was going to have a really worker[-friendly] Uber regulation — it just didn’t seem that high to us,” Harwin said.

What the bill doesn’t do: weigh in on worker classification or collective bargaining, traditionally the two biggest faultlines when it comes to gig work. There is no mention of words like “employee” or “union” that have derailed other efforts to enact gig work policy — in California, Connecticut, Massachusetts and New York, to name a few — by pitting employers and organized labor against each other.

Companies want their business models preserved by labeling workers as independent contractors. Unions are pressing hard to reclassify them as employees, which would give them the right to collective bargaining under federal law.

All of the women involved in the Washington state effort agreed avoiding that issue is a big reason why they were able to reach an agreement.

Lyft, Uber and Teamsters 117 “had decided before I was even involved that classification was not on the table,” Berry said. “No one wanted to touch that here.”

Washington state’s legal definition of employee makes worker classification a much more difficult knot to untie than it is in other states, Wiest said, which has scrambled earlier efforts to address independent contracting in professions like hairdressing. As a result, local union officials came prepared to secure employee-level benefits for their members — rather than redefine them as employees.

“We knew what the drivers wanted; they’re very clear,” Wiest said. “So we just got to work on what the drivers wanted.”

As for unionization, a Seattle ordinance that set pay standards for ride-hail drivers had helped pave the way for the state bill’s wage provisions. But it also made clear to organized labor that any language touching on collective bargaining would be legally complicated: Provisions in the city’s policy that allowed ride-hail drivers to unionize have been mired in court for years amid a legal challenge from the U.S. Chamber of Commerce.

“We’re silent on that knowing that it’s a bit of a gray area,” Berry said.

Federal law currently allows employees to organize — but not independent contractors, which is a big part of why national union officials have been so outspoken against the Washington state law and expanding it to other states.

“App-based drivers are misclassified workers. Period,” O’Brien, the Teamsters national president, said. “It makes no difference if it’s happening in Massachusetts or Washington or any other state — gig companies are pushing an agenda designed to rob workers.”

But Lyft and Uber say they are already fielding inquiries from stakeholders in other states on how to bring the Washington state concept to their gig workers.

“Some conversations have been happening and continue to be underway,” Hensley said. “The concept of being able to come together ... and create a structure that is going to deliver the flexibility and independence and the benefits that we know drivers want and need, I definitely think there's a model for that now going forward and definitely will lean on that in processes around the country.”

The fact that the Washington state bill came together in a blue state with the help of local union officials and a progressive lawmaker will help employers make the case elsewhere, Uber's Prieto said.

It’s the “first state in America to have proof of concept on something that has been heavily debated for years,” she said. “Having proof of concept from a deeply blue state is that much more meaningful.”

Such conversations are already underway in Massachusetts, where Uber and Lyft are trying to get a question on the ballot — as they did in Washington state — for the midterm elections.

“They're similar to Washington state,” Hensley said. “We're going to continue to work through the legislative process through the rest of the session and remain hopeful that we can come to an agreement that works best for drivers.”

“If that is not successful, we do have a ballot campaign that folks will see in November to be able to vote to provide those protections to drivers directly,” she added.

Wiest said she could envision a similar compromise in Massachusetts given that “there is a vibrant labor movement there.” More than 12 percent of Massachusetts workers were in a union in 2021, [according to the Bureau of Labor Statistics](#) — notably higher than the national average of 10.3 percent (though still lower than Washington state’s 19 percent).

“You can't do it if the drivers aren't leading,” Wiest said. “If you're leading the charge, and there's no one following you, there's nothing to be gained, right? The workers have to be leading the charge with you.”

As for Congress, Democrats remain unswayed by the state-level churn. Top lawmakers are still dialed in on the [PRO Act](#) despite the lack of a clear path forward for the legislation.

“Every single day in the Senate I’m fighting for Washington state workers, and I'm focused on getting the PRO Act passed,” Senate HELP Chair [Patty Murray](#) (D-Wash.), who recently held an event in Washington state extolling the legislation’s benefits, said.