Uber State Interference:

How Transportation Network Companies Buy, Bully, and Bamboozle Their Way To Deregulation

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Executive Summary

Over the past four years, transportation network companies (TNCs), primarily Uber and Lyft, have convinced legislators in the vast majority of states to overrule and preempt local regulations and strip drivers of rights. The speed and sweeping effectiveness of the industry's use of this strategy, known as state interference (or preemption), is unprecedented.

In this report, we set out to describe how two upstart companies have been able to convince state governments to swiftly and aggressively deregulate their industry and how their success has impacted stakeholders. The report seeks to arm legislators and the public with knowledge and tools to understand and address this phenomenon, protect communities most impacted by this industry, and uphold local democracy.

In-depth case study analyses in four states, Florida, Pennsylvania, Texas, and Washington, reveal that the TNCs' strategy has been to create political crises in localities—where for-hire transportation has traditionally been regulated—and then move state legislators to solve the manufactured crisis through state interference. The case studies detail the "barge in, buy, bully, and bamboozle" tactics the companies use to advance this strategy and the impacts on for-hire drivers, who are predominantly immigrants and people of color, and the communities in which they live.

Summary of Findings

TNCs have successfully adopted state interference, an antidemocratic legislative practice favored by the gun and tobacco industries and popularized by the ultraconservative American Legislative Exchange Council (ALEC), in order to rewrite the law.

- TNCs have secured preemptive state law in over four out of five states. Lawmakers in 41 states have passed laws that have taken away some or all of the ability of localities to set their own standards for the TNC industry.
- Preemption has tremendous impact on local transportation and largely deregulates the industry as a whole.
- State interference is a political strategy pioneered by the tobacco industry and the National Rifle Association and employed aggressively by the ultra-conservative American Legislative Exchange Council (ALEC) and other corporate interest groups, like the National Restaurant Association and, more recently, TNCs Uber and Lyft. As detailed further below, there are a number of connections linking the TNC industry and ALEC.

- State interference on behalf of TNCs harms people of color. As in other cases of state interference, state interventions into local for-hire regulation involve predominantly white legislatures blocking local programs and policies that benefit people of color, in this case for-hire drivers who are predominantly people of color and immigrants.

- State interference is a means to rewrite employment law. While state action on TNCs is often characterized as a solution to a "patchwork" of local laws, in fact TNCs may pursue state interference in part because state lawmakers can address one of their core policy goals: to rewrite state law on employee status. By rewriting the law, they exempt themselves from a myriad of employment protections - state minimum wage, unemployment insurance, workers' compensation, discrimination laws, fair chance hiring and paid sick leave where they exist, and efforts to pass a collective bargaining process at the city level.

To move states to intervene, in the case studies reviewed for this report, TNCs (and Uber in particular) created a political crisis at the local level, and pushed the state to solve that crisis through four primary tactics: barge in, buy, bully, and bamboozle.

BARGE INTO a market, sometimes illegally, and spend large amounts of money to quickly develop a customer and driver base. When first entering markets, companies offered incentives to drivers and free rides to passengers, and have even paid fines drivers receive for operating illegally. To avoid law enforcement, Uber went so far as to develop a program that identified individual public employees and officials, and then blocked their ability to use the app to hail rides.

BUY access by deploying an overwhelming number of well-connected lobbyists to make contact with elected officials and their staff. In Portland, 16 Uber and Lyft lobbyists and company representatives appear in city officials' contact logs in 2015, accounting for 30 percent of all city lobbyist activity that year. Across the country, in 2016 Uber had 370 active lobbyists in 44 states, dwarfing some of the largest businesses and technology companies.

In 2016, together Uber and Lyft lobbyists outnumbered Amazon, Microsoft, and Walmart combined.

BULLY elected leaders by individually targeting them and issuing ultimatums. In Texas, one or both of the two major TNCs suspended service in numerous cities, including Austin, Corpus Christi, Galveston, Houston, and Midland, when city legislative bodies (and voters in the case of Austin) imposed reasonable regulations on them.

BAMBOOZLE customers to take political action, frequently by misrepresenting the facts, and often via the app itself. Messages to customers have claimed that city councils, county boards, or state legislatures are threatening to "force" the TNCs to leave, when in fact elected governments are seeking to enforce existing laws or even create basic safety requirements that other businesses follow. Then the TNCs continue with the first three tactics described above.

In many cases, using these strategies and tactics, Uber has secured a high level of access in multiple state and city legislative processes, enabling it to draft its own bills, heavily influence the vetting, and even effectively staff elected officials on the issue. In Oregon and Ohio, Uber wrote or co-wrote the original drafts of legislation, and legislators in multiple other states characterize legislation as written by or in the primary interest of the industry.

TNCs have secured state laws that deregulate portions of the for-hire industry and rewrite employment law, harming drivers and communities in the process.

- When TNCs succeed in pushing legislation that exempts their drivers from state labor laws, such as unemployment insurance, workers compensation, and minimum wage, drivers no longer have access to redress or benefits afforded to other workers in the state.
- Disability rights advocates contend that TNCs, by failing to provide wheelchair accessible vehicles, are in violation of laws protecting people with disabilities. Weak state laws generally only require the TNCs to have a non-enforceable "policy" against discrimination.
- Deregulating TNCs may be hurting the climate by undermining public transit and adding more vehicle miles traveled (VMT) to city streets. A study of San Francisco TNC riders found that one third of those surveyed would have used public transit for their most recent trip, were TNCs not available.[1]
- Overriding local communities erodes democratic governance and the ability of local government to meet the unique transportation needs of residents. When locally-elected policymakers are prevented from creating policies that protect and respond to the needs of residents, or the policies they do pass are overridden by state legislatures beset by blitzkrieg-style lobbying, then local participatory democracy is at stake.

In this May 26, 2017 photo, workers set up a tent to welcome drivers back to the Uber offices in Austin, Texas. Uber and Lyft, the ride-hailing company giants who left Texas's capital city in a huff over a year ago over fingerprint requirements for drivers, are set to return after state lawmakers stepped in.

Source: Associated Press/Eric Gay

Summary of Recommendations

State and local legislators and advocates can bring fairness to the sector and oppose undue influence by corporations on our government. The following include some of our recommendations:

- ***State legislators*** should reject efforts to preempt local authority with respect to TNCs, and instead delegate regulation of TNCs to local transportation authorities, just as many states have done for taxi regulation. Alternatively, they should work closely with cities to develop policies that establish a statewide floor, allowing cities flexibility to customize TNC regulations. They should reverse laws that strip drivers of their rights as employees.

- ***Local legislators*** should require TNCs to comply with local labor standards and be alert to any attempts to define drivers' employment relationship as independent contractors in city legislation and rulemaking; require TNCs to share, with appropriate privacy safeguards, the data that communities need to ensure that TNCs are strengthening rather than undermining mobility and transportation; and learn about and support innovative ways to ensure for-hire drivers can form alternative business models, like cooperatives and nonprofit organizations.

- ***Advocates and local leaders*** should stress the uniqueness of local communities and that one size does not fit all; call out (and use litigation to attack) racial injustice when it occurs as part of preemption; and support elected officials who lead on local policymaking rights and equity in the industry.

Introduction

In just four short years, TNCs Uber and Lyft have persuaded 41 state legislatures to interfere with local government policymaking. This strategy of "state interference" or "preemption" was pioneered by the gun and tobacco industries. In this case, TNCs have not only largely deregulated their part of the for-hire driving industry, but they have also redefined the employment relationship with their drivers in state law. It is a strategy that undermines democratic local government and negatively impacts drivers, consumers, and the broader communities in which they live. These far-reaching effects illustrate the ways in which wealthy and politically-connected corporate actors, enabled by state legislators, assert control over many aspects of our daily lives.

How have two upstart companies been able to so swiftly convince legislators that these new services should be legislated in an entirely new manner? And in ways that typically benefit just a few companies, but work to the detriment of so many others?

Our investigation finds that TNCs, led by Uber, employed a two-part strategy: TNCs manufacture a crisis at the local level and appeal to state legislatures to fix that crisis by overruling local law. This "crisis" is usually the implied or actual threat of suspending a popular service. As we will describe more specifically below, in order to create a crisis and win their preferred solution, TNCs—in particular, Uber—have operated in violation of the law, leveled ultimatums to elected officials, and misled the public (see appendix for more on talking points versus reality). Both Uber and Lyft have spent, and continue to spend, massive amounts of money and time to influence the decisions of state and city legislators, in some cases over several years, through both traditional and novel lobbying efforts.

> ***"Uber…went on an internet public relations campaign, claiming to everyone who contacted them that we had banned them from the island. Coming to us and engaging us about an ordinance is the adult thing to do. Misinforming the public about factual laws and regulations regarding the services that are provided on this island…approaches criminal…And shame on them."***
>
> **– Galveston Council Member Norman Pappous**[2]

The purpose of this report is to equip legislators and consumers with knowledge and tools to confront TNCs' version of the "shock doctrine"—when these companies manufacture crises or political impasse at the local level to push through state policies that remove policymaking authority from local governments. By shedding light on these "barge in, buy, bully, and bamboozle" tactics, this report can help legislators and consumers ask essential questions and advance the interests of the public.

This report begins with important context, including a description of what state inference is, the breadth of state interference conducted by and on behalf of the TNC industry, and why state interference is the preferred tool of this industry. Then we provide a deeper dive into the strategy of manufacturing local crises to prompt an unnecessary state solution, incorporating case studies throughout. Finally, we explore the impact of this state interference and deregulation on a variety of stakeholders. This report concludes with recommendations for policymakers and advocates.

A Note on Research Methods

In order to understand how the TNC industry uses state interference, we conducted in-depth research in six states where legislatures have passed, or considered passing, preemptive state TNC laws. These states, selected based on geographic and political diversity, as well as robust activity by the industry, are Florida, Ohio, Oregon, Pennsylvania, Texas, and Washington. For all states we: analyzed public data about state and municipal lobbying expenditures; reviewed emails exchanged between key state legislators, TNCs, and their contract lobbyists; and reviewed press accounts. Additionally, for Florida, Pennsylvania, Texas, and Washington, we: reviewed emails exchanged between city officials, TNCs, and their contract lobbyists; reviewed available videos, minutes and transcripts of city/county and state meetings and hearings; and interviewed city and state legislators, their staff, and other stakeholders.[3]

PART ONE
Disrupting Democracy: State Interference on Steroids

Transportation Network Companies may be the first industry in our country's history to so quickly and completely rewrite state law in their own interest. **In fewer than five years, lawmakers in 48 states and DC have passed legislation regarding this new industry.** Some of these laws regulate only auto insurance, reflecting an agreement among the major insurance companies and TNCs in the spring of 2015.[4] But in many states, TNCs appear to have used their agreement on insurance to add many other elements to state proposals. **In 41 states, TNC laws explicitly or implicitly erase some or all of the ability of localities to set their own standards for an industry with tremendous impact on local transportation.**[5] Arguably only the gun lobby has been able to more fully restrict local regulation, with 43 states expressly preempting all, or substantially all, aspects of local firearms or ammunition regulation.[6]

State interference or preemption—the strategy of circumventing local democracy by passing state-level laws that prevent cities from governing on specific issues—has become a favorite tool of powerful conservative and corporate groups to avoid regulation, suppress progressive policy innovation at the local level, and strip workers of rights.[7] The American Legislative Exchange Council (ALEC) and other corporate interest groups and associations have aggressively employed this strategy in recent years to stop cities from adopting a diverse range of policy changes supported by their residents.[8] ALEC, the National Rifle Association (NRA), other industry associations, and wealthy special interest groups have exploited the power of the state to weaken local policymaking authority and deregulate entire industries.[9]

This effort to suppress local democracy is, unfortunately, succeeding in too many places. A large number of states now restrict cities from raising minimum wages (25), requiring construction labor agreements (23), and enforcing paid sick day measures (20), among other policies through which local policymakers are seeking to address unemployment, displacement, and affordable housing issues.[10] Numerous bills are pending in state legislatures to further limit cities' power to respond to the needs of their residents. In an extreme effort to erase city power, Texas Governor Greg Abbott has been actively advocating for the removal of local government authority to take any action without the permission of the state.[11]

Statewide TNC laws are the ultimate special interest legislation: primarily benefiting just two companies, Uber and Lyft, frequently with far less regulation than that traditionally applied to other taxi and for-hire companies.

The TNCs have employed this strategy with stunning success. In the last four years, nearly four times as many states have restricted or prohibited city regulation of ride-hailing companies as have passed minimum wage preemption bills.[12] In the states we reviewed, these efforts have been led by Uber, and have largely benefitted just Uber and Lyft, two companies that have been in existence for less than a decade. Statewide TNC laws are the ultimate special interest legislation: further enabling their monopoly or duopoly in the entire for-hire sector, frequently with far less regulation than that traditionally applied to other vehicles-for-hire.[13]

Race and State Interference

While state interference has predominantly been portrayed as a symptom of the political power struggle between the right and left, the reality can be far more alarming: state interference too often involves predominantly white legislatures blocking local programs and policies designed to help people of color to overcome structural and historical barriers. Take the battle over local minimum wages. African American workers often have the most to gain from minimum wage increases because they earn substantially less than their white counterparts in the lowest wage occupations across the United States.[14] Yet in seven cities where African Americans make up between 41 to 73 percent of the city's population, majority-white state legislatures responded to local efforts to raise the minimum wage by passing statutes that prohibit local governments from enacting these measures. In some cases, the legislature barred the wage increase on the local ballot, and in others, it reversed local wage increases.[15] In our research detailed below, predominantly white state legislatures have passed TNC bills that prevent local governments (in many cities with large populations of people of color) from enacting policies that impact drivers, who, in many places, are disproportionately people of color.

The Connections Between TNCs and ALEC

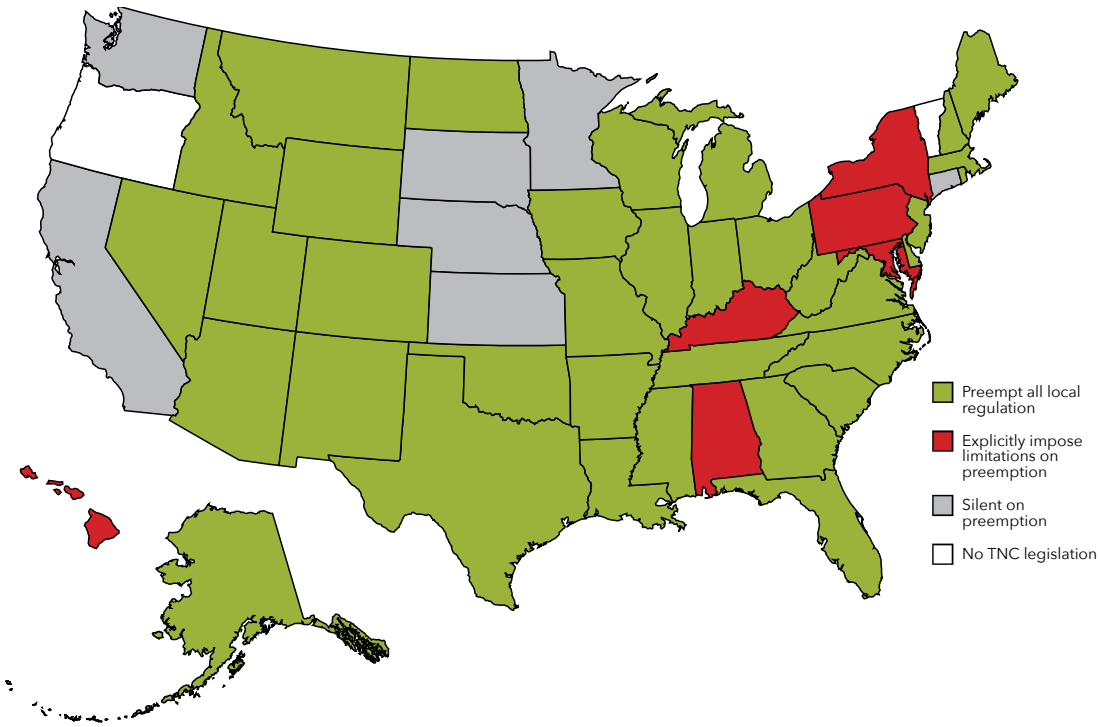
Many tech startups position themselves to lawmakers and the general public as progressive innovators, not corporate interests. For example, in 2014, Uber and Lyft joined with other tech companies to renounce membership in the ultraconservative group ALEC.[16] However, there are a number of continuing connections between the TNC industry and ALEC.

In 2014, ALEC began circulating model TNC legislation that imposes rules for insurance and background checks on TNCs—largely allowing TNCs to push costs onto drivers—as well as minimal consumer protections, and a provision declaring that the drivers "need not" be the employees of the TNCs.[17] Elements, and sometimes specific wording, of the ALEC bill have appeared in many of the state-passed laws. NetChoice, an industry

lobbying group of which Lyft is a current member,[18] appears to have become a primary conduit to ALEC. NetChoice's Executive Director, Steve DelBianco, has been a member of ALEC's Corporate Private Enterprise Board since 2014.[19] The NetChoice website includes two presentations made to ALEC on TNC legislation, including one in 2015 on "solutions to enable the rideshare revolution."[20] Lobbyists for Uber reportedly presented to the ALEC annual convention in 2017 on "the virtue of the sharing economy and state legislation that would prohibit cities from regulating it."[21]

State Interference: The Tool of Choice for TNCs

TNC state legislation, backed by Uber and Lyft, prevents local governments from regulating a broad range of issues, including licensing, background checks, vehicle safety, data-reporting, and driver employment status. While most state laws impose licensing or registration requirements on TNCs, annual registration is frequently for a fee of $5,000 or less—nominal for the well-resourced Uber and Lyft. Of more than 40 laws, only a dozen have consumer privacy protections. Only about half incorporate minimum age requirements for drivers. A handful include limitations on hours that drivers may put in during the course of a day or have limitations on "surge" pricing.[22]



The Misleading "Patchwork" Argument

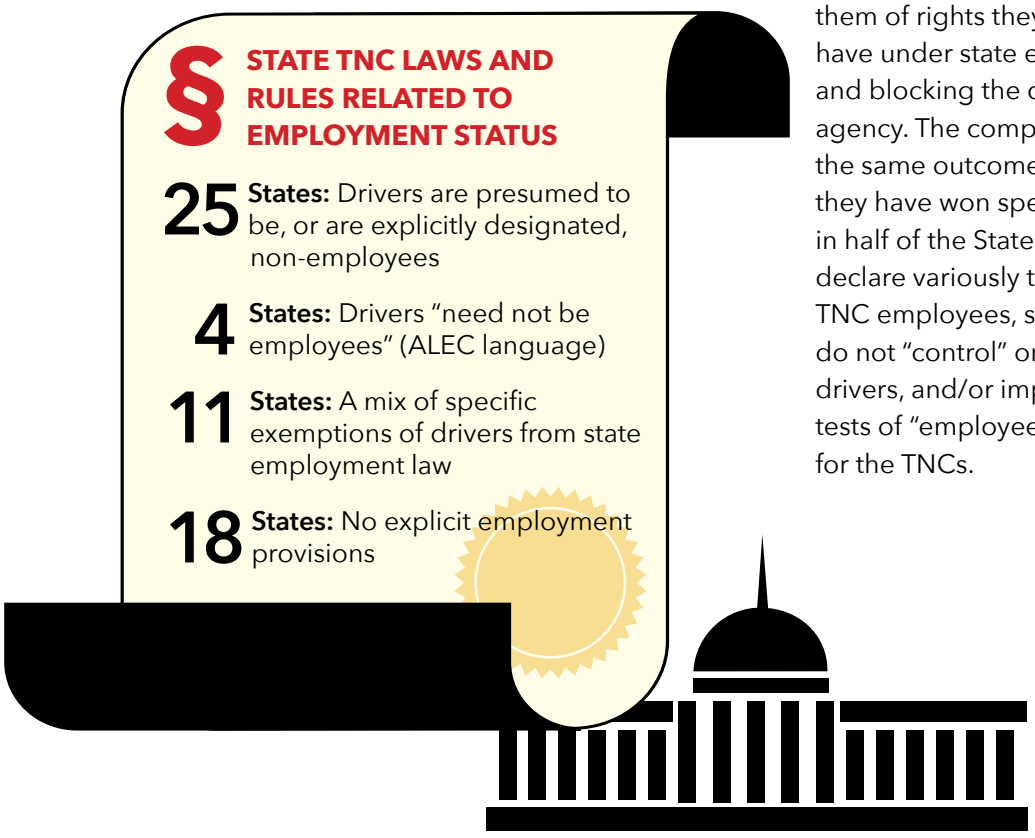
A favorite talking point of lobbyists arguing for any kind of state interference is that complex "patchworks" of city regulations put an unfair burden on business. TNCs have parroted this line. In Washington State, Uber's representative claimed that the so-called patchwork system "imposes a number of significant costs" that limit benefits to communities, and the ability of drivers and riders to take advantage of this technology.[24] However, across industries, businesses that operate in multiple jurisdictions must

navigate multiple differences among the markets – regulatory, cultural, and competitive, to name a few.[25] But it is an especially odd argument coming from savvy, nimble, tech companies like Uber, whose platform reportedly can adjust the cost of rides in a given area every three minutes based on supply and demand.[26]

Why, given that for-hire vehicles like taxis have traditionally been governed at the local level in most states, have TNCs so aggressively sought state-level legislation?

Defining Drivers as Independent Contractors

First, one of TNCs' primary policy goals—to define its drivers as independent contractors—can be accomplished in large part only at the state level, given that the employment relationship is typically determined by a combination of state and federal laws.[27] Uber and Lyft have waged aggressive battles against their own drivers in multiple lawsuits in order to defend their classification as independent contractors and not the employees of the companies.[28] This is a key question for the companies, since employees have protections, benefits, and rights—and thus are more expensive—than independent contractors. Experts estimate that by acknowledging their drivers as their employees, TNCs would add 30 percent to their operating expenses.[29] Both companies say drivers are independent contractors, but multiple state labor agencies have found that drivers are in fact employees.[30] The companies appear to be using state interference to override these decisions. For example, in 2015 the Alaska Department of Labor and Workforce Development informed Uber that it could not operate in Alaska without paying workers compensation payroll taxes as an employer.[31] But in 2017, the Alaska state legislature passed a law (HB 132) that says drivers are not employees, stripping them of rights they would otherwise have under state employment law and blocking the decision of its state agency. The companies have pursued the same outcome in many states, and they have won specialized legislation in half of the States.[32] These new laws declare variously that drivers are not TNC employees, state that the TNCs do not "control" or "manage" their drivers, and/or impose entirely new tests of "employee" status, written only for the TNCs.



Lack of Familiarity with the For-Hire Driving Sector

Second, it may be precisely because cities have experience overseeing taxi and car services that TNCs seek to overrule or bypass them. TNCs are in direct competition with other for-hire vehicle services, but in order to win different and more favorable regulatory frameworks than those other services, they have sought to present themselves as fundamentally different from highly-regulated taxi and car services. This argument may be easier to make to state officials, who are less familiar with the specifics of the for-hire sector. Additionally, cities have constituencies in these sectors –including workers and advocates, organizations of and for people with disabilities, and taxi companies–which have actively opposed special treatment for TNCs.[33] Those local constituencies rarely have the same direct relationship with and capacity to lobby state legislators.

SAFETY

Texas state law eliminated safety features like extra vehicle inspections (which taxis undergo) and a limit on hours that a driver can be working in any 24-hour period. It also eliminated tax or fee revenue that a city might use for enforcement, transportation planning and infrastructure, disability access and more.

Key provisions of law/ordinance[34]	**Austin**	**Galveston**	**Houston**	**Texas HB 100**
Company operating permit required?	Yes, fees vary	$120 per vehicle	Yes, 2% of gross	Yes, fee TBD by TDLR[35]
City driver permit required?	Yes	Yes	Yes	No
Dynamic pricing limited?[36]	Yes	No	No	No
Vehicle standards (other than state inspection)?	Yes	Yes	Yes	No
Is the driver limited in hours active on the network?	12 per 24 hrs	No	12 per 24 hrs	No
Fingerprint background check?	Yes	Yes	Yes	No

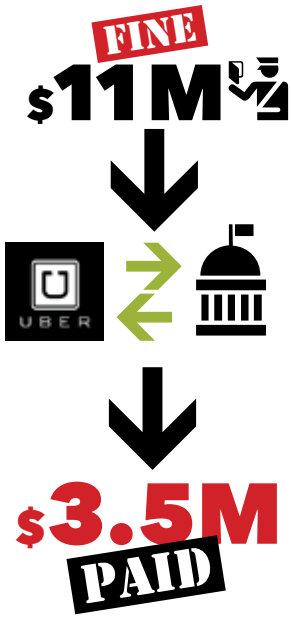
PART TWO
Manufactured Crises, Corporate "Solutions"

In the states examined for this report, TNCs, mainly Uber, have followed a strategy of creating a political crisis at the city level and pushing the state to intervene to solve that crisis.[37] The cycle goes like this: "**barge into"** a market, sometimes illegally, and spend large amounts of money to quickly develop a customer and driver base; employ a further strategy of "**buy, bully, and bamboozle**," which involves simultaneously deploying numerous well-connected lobbyists to pressure local elected officials, sending lobbyists to the state capitol to urge legislators to intervene and solve the "crisis;" and mobilizing customers as "grassroots" supporters (sometimes by misrepresenting the facts).

BARGE IN:
Violate the Law, Pay the Price, Build Base, Repeat

Pennsylvania:
Paying to Operate Illegally and Evade Law Enforcement

The Pennsylvania Public Utilities Commission (PUC), which was responsible for the regulation of the for-hire industry outside of Philadelphia, initially responded to the illegal launch of TNCs in the state by issuing citations to drivers, fining the companies, and obtaining cease and desist orders.[38] The PUC later sought an $11.3 million fine against Uber, for over 120,000 violations. This fine was settled for $3.5 million in 2017.[39]



The regulatory agency in Philadelphia, the Philadelphia Parking Authority (PPA), initiated a sting operation when the TNCs launched, using the app to summon rides, and then issuing citations and impounding drivers' cars.[40] Uber responded by pledging to pay the fines and impoundment costs for its drivers.[41] Then, in order to avoid enforcement, Uber began blocking trip requests coming from individuals and internet provider addresses associated with the PPA.[42] Ten months later, while still operating illegally, Uber had more than 12,000 drivers in Philadelphia.[43] In the summer of 2016, Uber and Lyft received temporary permission to operate. As a condition, Uber paid $350,000 into a "trust" that could be used to settle fines levied by the PPA.[44]

TNCs subsidized their early operations in order to quickly gain a market foothold, which also helped them build up a consumer advocate base to deploy politically. For example, both Uber and Lyft have offered an initial period of free rides in many (if not most) places.[45] For riders who refer enough new users, TNCs have offered credits to be used in-app.[46] Uber and Lyft also offer incentives for drivers to sign up.[47] These incentives, together with rapid growth in smartphone ownership and frustration with taxi and public transit options, led to explosive growth in TNC services.[48]

In addition to directly subsidizing riders and drivers, TNCs treated fines and tickets for operating illegally as a cost of doing business. As Uber and Lyft broke into new cities, regulators across the country tried to enforce existing law, fining the companies and their drivers millions of dollars and even impounding cars. Far from remorseful, the companies responded by fighting fines and urging drivers to continue to operate in violation of the law.[49] In the states and cities reviewed here, Pennsylvania represents the starkest example. There the Public Utilities Commission (PUC) fined Uber $11.3 million.[50] In Miami-Dade County, Uber and Lyft drivers racked up more than $4 million in fines, which the companies said they would pay, but which they fought for over a year.[51] In Houston, Uber promised to pay the fines for drivers, and in Miami-Dade, both Uber and Lyft promised to pay the fines for drivers during the periods when they were operating outside of the law.[52]

BREAKING THE LAW[53]

- **In Miami-Dade County, Uber and Lyft drivers racked up nearly 5,000 citations in two years for operating without valid for-hire licenses. Uber drivers had received 95 percent of those citations still under appeal as of November 2017.[54]**
- **In Portland, Uber paid nearly $70,000 for the several weeks that it operated without taxi permits.[55]**

Uber also spent money to develop technology, called "greyball," to avoid local law enforcement altogether.[56] Greyball used data from the Uber app to identify individual public employees and officials, and then limit their ability to use the app to hail rides –because regulators would summon rides and then issue citations or even impound vehicles.[57] Uber deployed this tool in multiple cities around the globe, including Boston, Las Vegas, Portland and possibly Austin and Philadelphia.[58] The Portland Bureau of Transportation (PBOT) conducted its own audit of Uber, finding that in the 16 days Uber operated illegally in December 2015, Uber tagged 16 government officials' rider accounts, and denied 29 ride requests by PBOT enforcement officers.[59]

Case Study: Texas-Sized Buying, Bullying, and Bamboozling

Texas was the site of a particularly pitched battle between TNCs and cities, with Uber and Lyft tangling with local officials across the state, sometimes withdrawing service, and spending millions on a proposition campaign in Austin. UberX and Lyft launched illegally in Houston and Austin in the first half of 2014.[60] Both cities acted quickly, passing legislation that permitted the companies to operate by fall 2014[61] – yet the TNCs spent the next two years in dramatic, sometimes personal, fights with the cities and elected officials.

In Houston, Lyft responded to legislation by suspending service; Uber stayed but threatened to do the same unless the city repealed requirements for fingerprint background checks.[62] After securing concessions from the city through years of pressure, Uber said that it would stay until at least through the Superbowl in February 2017. By that time, state legislation was pending and Uber never left Houston.[63]

In Austin, where the 2014 legislation was a placeholder while permanent rules were worked out, Uber and its lobbyists launched a campaign focused on Council Member Ann Kitchen, chair of the Mobility Committee. One Uber blog post urged riders to call and email her office, and tens of thousands of people signed an online petition.[64] The company also created a feature in its application ("in-app") targeting Kitchen. When Austin riders opened their app they were greeted with a "Kitchen" option which would offer them transportation via a "horse and buggy."[65] Later Kitchen said: "These guys out in Silicon Valley like to consider themselves disrupters, but they're just another version of what we've had before: big business [types] who think they can write their own laws."[66]

During 2015 and 2016, Uber had four lobbyists in Austin and Lyft had one -- to lobby a ten-member city council.[67] Despite this pressure, the final Austin ordinance regulated TNCs similarly to taxis, including requiring fingerprint background checks, a policy that Uber and Lyft consistently resist.[68] Uber and Lyft then spent a combined $8.6 million campaigning for a new ordinance in Austin.[69] The Council took the ordinance to voters via a ballot proposition. The voters decided to keep the Council's ordinance, despite the TNCs spending $200 for every vote in their favor.[70] Two days later, on May 9, 2016, Uber and Lyft ceased operations in Austin.[71]

A screenshot of the Uber app in Midland, provided by Public Information Officer Sara Bustilloz.

Back in the state legislature, from the beginning of consideration of Texas HB 100, local preemption was a widely-discussed provision.[72] The proposal would overrule the laws put in place by several cities, including Austin, Corpus Christi, Galveston, and Houston. Austin Mayor Steve Adler testified against the state preemption bill in committee hearings, as did city officials or their representatives from Dallas, El Paso, Houston, San Antonio, and the Texas Municipal League.[73]

The cities and their residents were no match for the TNCS: in the 2015 state legislative session alone, Uber reportedly spent between $420,000-$945,000 on lobbying, and Lyft spent between $160,000 and $285,000.[74] For the final push in 2017, Uber had 26 lobbyists and spent between $820,000 -$1.6 million to pass HB 100 in May 2017.[75]

BUY INFLUENCE:
Lobbyists, Legislators, and Public Relations

In addition to money spent on fines and tickets, Uber has aggressively employed traditional lobbying strategies with remarkable amounts of money. Uber's approach has been to hire strategic and high-profile Democratic and Republican operatives, depending on key officials and which parties control the legislature. The Democratic operatives in particular soften the company's brash image and perhaps distract from its connections with conservative groups like ALEC. These well-connected state and local lobbyists, and large numbers of them, are able to generate a high volume of contact with elected officials and their staff. Executing this strategy requires a significant amount of money; lobbying disclosures indicate that Uber and Lyft spent at least $4 million in 2016 and the first half of 2017, in just five of the states we reviewed.[76] In 2016 Uber and Lyft's lobbying expenditures in the five states below are on par with Walmart's expenditures in all of the 41 states it reported.[77]

In the first half of 2017, Uber topped the list of all lobbying groups in New York State, spending $1.8 million to pass statewide legislation.[78]

Uber and Lyft Lobbying Expenditures [76]

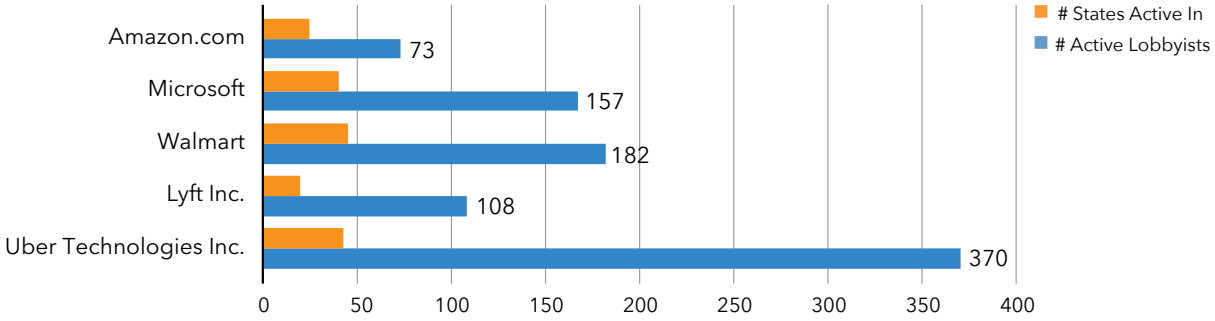
	Uber $ Lobbying		Lyft $ Lobbying	
	2016	Jan. – Jun. 2017	2016	Jan. – Jun. 2017
Florida	$480,000	$270,000	$35,000	$20,000
Oregon	$57,433	$31,574	$53,000	$30,000
Pennsylvania	$394,028	$175,193	$27,551	$2,830
Texas*	$720k–1,265k	$820k–1,560k	$185k–405k	$365k–760k
Washington	$150,876	$74,697	$35,000	$53,000
Minimum spent	**$1,802,337**	**$1,371,464**	**$335,551**	**$470,830**
Maximum spent	**$2,347,337**	**$2,111,437**	**$555,551**	**$865,830**

**Provides only ranges of amount spent, not specific amount spent.*

Well-connected lobbyists—including former elected officials and their staff at both the local and state levels—have been central to this strategy. David Plouffe is one of Uber's most high-profile hires, emblematic of what appears to be an effort to make Democrats the public face of its anti-democratic policies. Plouffe, a former strategist for President Obama, joined Uber in 2014, providing the company with a sheen of progressive values even as it fought Seattle's city council over a ground-breaking collective bargaining ordinance (see case study below).[79] In Portland, Uber hired Mark Wiener, considered to be one of the most powerful political consultants in the city, while he was also working with the Democratic mayor on his reelection plans.[80] The TNCs' PAC paid $50,000 to Austin's former Democratic Mayor Lee Leffingwell in their failed $8 million campaign

in that city.[81] And in Pennsylvania, Uber's many lobbyists included Krystjan Callahan, the former Chief of Staff to Republican House Speaker Mike Turzai. In conversations, legislators, staff and stakeholders indicated that Uber stood out for the strange bedfellow mix of Democratic- and Republican-aligned lobbyists.

Legislators and their staff also said that the TNCs stood out for the sheer numbers of people they hired as lobbyists, and their resulting ability to meet with many different offices while devoting significant attention to gatekeepers and sponsors. According to The National Institute for Money in State Politics, in 2016 Uber alone had 370 active



lobbyists in 44 states across the country, dwarfing some of the largest businesses and technology companies.[82] Together, Uber and Lyft lobbyists outnumbered Amazon, Microsoft, and Walmart combined.

2016 State Lobbyists

Uber's investment in lobbying staff at the city and county level was also overwhelming. In Portland, 16 Uber and Lyft lobbyists and company representatives appear in city officials' contact logs, and in 2015 the companies together logged 453 meetings, phone calls, and emails with city council members, the mayor, and staffers, representing 30 percent of all city lobbyist activity.[83] When Uber was trying to launch UberBLACK in Miami-Dade, it had seven lobbyists to persuade a 13-member Board of Commissioners to see things its way.[84]

What does all this money buy? It allows the TNCs to literally write their own ticket.

In multiple cases, this money, time, and attention allowed Uber to draft its own bills, heavily influence the vetting, and/or even effectively staff elected representatives on the issue by helping with press releases and testimony.

> ***"This is about as loose as it comes...And I know why, because it's what Uber put on the table. The more I get into the bill, the more aggravated I get – that this is an Uber bill. This is not a Connecticut General Assembly bill. This is not a taxi bill."***
>
> **– Connecticut State Senator Michael McLachlan**[1]

[1] *Kyle Constable, "Years Behind Other States, Rules for Uber, Lyft Win Final Passage," CT Mirror, (Jun7, 2017).* https://ctmirror.org/2017/06/07/years-behind-other-states-rules-for-uber-lyft-win-final-passage/

Email records indicate that in Oregon and Ohio, Uber wrote or co-wrote the original drafts of legislation—in Ohio this version would become HB 237, the preemption bill.[86] In Washington, a state legislator said that there was no apparent stakeholder process in 2016-17—Uber just showed up with the legislation it wanted.[87] In Texas, one longtime lobbyist said, "The bill that was drafted was a pure industry bill."[88] In Pennsylvania, Uber's version of statewide legislation was the one that moved forward, reportedly because of its aggressive lobbying.[89] And in Florida, the sponsoring senator's staff emailed the first iteration of the bill to Uber, calling it "our Uber language" and Uber's lobbyist requested a meeting to review changes to "our legislation."[90]

The company's role in drafting legislation, combined with state legislators' relative unfamiliarity with for-hire vehicle regulation and the TNC technology specifically, allowed for an important key provision—exempting the companies from any obligation as employers of their drivers—to pass without discussion in some places. We were unable to locate any instance in which issues of employment classification were raised by the TNCs or the legislators at a public hearing on the 2017 legislation in Florida or Texas.[91] In Oregon, one of the chief sponsors of the TNC bill later introduced an amendment to change drivers to employees, potentially in an effort to address employment classification issues that were overlooked initially.[92]

Our review of emails suggests that many of the lobbyists function like additional staff for elected officials, providing them with ready-made talking points, drafting messages from legislators to colleagues, and drafting legislators' testimony about the bills. In Portland, Uber was involved in writing the city's press release announcing a stakeholder task force and its own suspended service, and in drafting a temporary operating agreement.[93] In Ohio, Uber's lobbyist sent over draft testimony for each primary sponsor to give to the committees considering the bill.[94]

Despite this intense TNC lobbying, and what seemed like inevitable state interference, cities still wanted to regulate TNCs. City officials and staff from places like Seattle, Broward County, Austin, El Paso, Galveston, and Houston and organizations like the Florida League of Cities,[95] League of Oregon Cities,[96] and the Ohio Municipal League[97] all testified, submitted comments, or lobbied against preemption. In Florida, Ohio, and Texas, they lost.

BULLY:
Levy Ultimatums and Call it Negotiation

In news reports and multiple conversations with city council members, the word "bully" came up not just in reference to Uber's campaigning strategies but also its behind-the-scenes legislative conversations.[98] Despite portraying itself publicly as trying to work with regulators, Uber has sometimes privately refused to negotiate on any terms but its own. In Seattle, Uber's representative told City Council President Sally Clark that it would not negotiate as long as the city was considering capping the number of for-hire vehicles: "…[caps] have no place in this conversation. We hope to start more serious discussions soon and be more actively involved of [sic] the drafting of these regulations."[99] In Washington, DC, council member Mary Cheh compared Uber to the gun lobby for its unwillingness to compromise.[100]

In Pittsburgh, Mayor Bill Peduto explained how its relationship with Uber soured: "When it came to what Uber and what Travis Kalanick wanted, Pittsburgh delivered…But when it came to our vision of how this industry could enhance people, planet and place, that message fell on deaf ears."[101]

Both Uber and Lyft demonstrated a willingness to use the ultimate bullying tactic, issuing an ultimatum that they would leave a city if they did not get the rules they wanted.[102] In Miami-Dade, commissioners were debating their TNC ordinance while watching as Uber and Lyft suspended service in neighboring Broward until they won the ordinance that they wanted.[103] In Texas in particular, one or both of the companies suspended service in numerous cities, including Austin, Corpus Christi, Galveston, Houston, and Midland, when city legislative bodies (and voters in the case of Austin) imposed reasonable regulations on them.[104] Of note, Uber remained in Houston, the fourth largest city in the US, proving that it could operate with what it called "onerous" requirements in place. But legislators, not wanting to be seen as anti-innovation luddites, and fearing the potential blowback, have often relented and given in to the demands of the TNCs.[105]

BAMBOOZLE:
How to Make Customers Work for You

Within Uber, people refer to the overarching strategy of making customers into advocates as "Travis' law,"[106] named for Uber's founder and first CEO Travis Kalanick: "Our product is so superior to the status quo that if we give people the opportunity to see it or try it, in any place in the world where government has to be at least somewhat responsive to the people, they will demand it and defend its right to exist."[107]

Florida: Mobilizing (and Misleading) Riders

In Florida, Uber used its access to riders to get them to lobby county and state legislators on behalf of the company. UberX and Lyft launched service in Miami in May-June, 2014.[108] After eighteen months of deliberation, the Miami-Dade Board of Commissioners was prepared to advance one of two competing proposals in January 2016. One, backed by Chair Jean Monestime, would create a more level playing field for all for-hire drivers (taxi and TNC), while the other would give TNCs a different set of rules more to the TNCs' liking. In the week leading up to the vote, the company sent a customized email to every rider in the area, linking them with one click to their commissioner. The subject line read: "Save Uber in Miami-Dade."[109] Uber cc'd Monestime on every email to another commissioner: he withdrew his proposal, and an Uber-supported bill moved forward.[110]

At the same time, the TNCs pushed for a statewide preemption bill. In March 2016 – with its recent Miami-Dade campaign in the background – Uber targeted Florida State Senate President Andy Gardiner with an ad blitz in Tallahassee and Orlando, along with mailers to voters in his district. It ultimately delivered over 32,000 petition signatures to his office.[111]


UBER

WE NEED YOUR VOICE

On Wednesday, January 20, the Miami-Dade County Commission meets to vote on two different ordinances that will decide the future of ridesharing in Miami-Dade.

One ordinance welcomes Uber to Miami-Dade, and would create a permanent regulatory home for ridesharing here.

But the other proposal, sponsored by Chairman Monestime, is one of the most hostile ridesharing laws in the country – and, if passed, would make it impossible for Uber to continue operating.

Your commissioner is a supporter of Uber. Tap the buttons below to say thanks – and urge the commission to **VOTE YES** on the Bovo proposal and **VOTE NO** on the Monestime proposal.

Click to Email Commissioner Xavier Suarez

This is a screenshot of a January 2016 notice to Uber customers in Miami-Dade.[112]

Activating customers as advocates for the company is an essential tactic in building a local political crisis. While activating members is not a remarkable political strategy for a non-profit or political group, it is certainly a remarkable innovation for private, for-profit companies to activate customers in this way.[113] And while a non-profit or political group may be mobilizing a member to support an issue or candidate with their donation or civic engagement, TNCs are mobilizing customers to ostensibly "save" a private service, which conveniently allows the companies to grow and dominate for-hire markets.

The TNCs' technology facilitates unique access to customers, with the companies using in-app messages to mobilize customers when facing potential regulation. When a

rider opens the app, they are greeted on-screen with the TNCs' message and a phone number to call, or web links to send emails or sign online petitions.[114] Uber has also used traditional political campaigning strategies, like robo-calls, direct emails, tweets, multiple forms of advertising (trucks, television, utility poles), and even door-hangers in Miami-Dade County.[115] In late 2015 while fighting a pending collective bargaining ordinance, Uber poured resources into a Seattle-specific television ad, and later developed in-app podcasts to deliver its message more directly to drivers.[116]

A screenshot of a Spring 2015 notice to Uber customers in Portland.[117]

Implied in Travis' Law is the idea that what is at stake is whether or not TNCs should exist—however, in our review this has almost never been the question under consideration by any local elected government.[118] This misleading conflation, important to building toward political crisis, is reflected in Uber's public messages. For example, messages to customers have claimed that city councils, county boards, or state legislatures are threatening to "force" the TNCs to leave, when in fact elected governments are seeking to enforce laws or even create basic safety requirements that other businesses follow. A Galveston city council member noted that constituents asked him why the council had "not allowed Uber to operate," when in fact Uber chose to leave the city (the continued operation of another local TNC, Get Me, demonstrated that law-abiding businesses were welcome in the city).[119] Austin City Council Member Delia Garza called out Uber's representative on the deception at a council meeting, saying "I'd ask in return that we be fair in the messages we're sending and the intent of what we're trying to do on this council, because, there have been messages sent, [like] 'Council member Kitchen is trying to take Uber out of Austin, Texas.' That's not fair."[120]

By using its ability to reach consumers directly in the app and by using persuasive, sometimes false, messages, Uber has overwhelmed city and state legislators with emails and phone calls from customers. In Houston the city attorney sent a "cease and desist" email to Uber because the number and persistence of emails coming into the Mayor and Council was "[h]arassing in nature and arguably unlawful."[121] In Seattle, Uber was still in its infancy of public campaigning when in September 2013 it managed to flood City Council members with phone calls from riders. Council member Mike O'Brien said he was shocked by the volume of calls on that first mobilization.[122]

The combination of building and mobilizing a consumer base, together with bullying city councils, creates a local crisis, and paves the way for the state to interfere with local policymaking.

PART THREE
What Corporate-Rewriting of State Laws Means for Communities

Pushing Costs onto Drivers

When TNCs succeed in pushing legislation that exempts TNC drivers from state labor laws, including unemployment insurance, workers compensation, and minimum wage, drivers no longer have access to baseline protections and benefits afforded to other workers in the state. In a nod to driver complaints of earning low, sometimes subminimum wages[123] and other bad publicity, Uber announced "180 days of change" in 2017, most notably allowing tips in the app.[124] However, this and other changes, such as charging riders who keep drivers waiting for more than two minutes, present corporate-driven alternatives to baseline worker protections and benefits and do not address very real driver concerns.[125]

Not only do the new state laws relieve TNCs of approximately 30 percent of their labor costs by exempting them from obligations as employers, they also allow the companies to pass many operating costs onto workers, who must purchase their own insurance and ensure their vehicles meet government requirements or purchase new ones.[126]

The loss of baseline employment protections has multiple ill effects on drivers. Access to unemployment insurance benefits when drivers are either "deactivated" or lose a second job is critical. Since taxi drivers and chauffeurs are killed on the job at a rate five times higher than the average for all other workers, workers' compensation protections are essential for this extremely hazardous occupation.[127] Existing background check laws that provide a framework for TNC driver background checks are being overridden by corporate-sponsored state laws.[128] Similarly, state legislatures are allowing TNCs to adopt their own, unenforceable, discrimination "policies," in contrast to existing laws that provide enforceable anti-discrimination protection for "employees." [129]

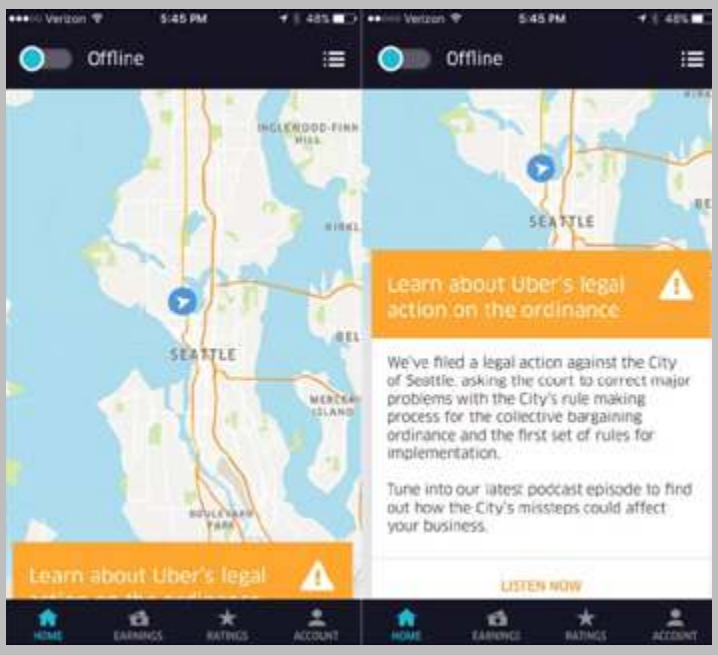
Finally, corporate rewriting of state laws governing TNC treatment of drivers undermines these drivers' ability to come together and negotiate with their employers over wages and benefits. Reclassifying workers as independent contractors, coupled with preemption of all local regulations of TNCs, shuts down innovative efforts that provide opportunities to ensure workers' voice, such as Seattle's collective bargaining ordinance, as well as emerging discussions on "portable benefits" for on-demand workers.

This corporate rewriting of state laws to exempt TNCs from obligations as employers is especially troubling because there is significant evidence that, under the traditional definitions in most state employment laws applied to virtually every other business within a state, drivers are employees. As state agency decisions, independent research, and news reports illustrate, TNCs essentially control what drivers do, surveil how they do it, set the price of their labor, and employ algorithmic management tools to get them to work when and where the company wants, all under pain of "deactivation" of their accounts.[130]

Case Study: Seattle Drivers Win Collective Bargaining as Washington Avoids Preemption

Washington State – where the battle around TNC regulation is ongoing – stands out for two reasons: first, it is one of a handful of states with very limited statewide regulation of TNCs; and second, the City of Seattle, one of the first cities where UberX launched, passed a groundbreaking ordinance enabling collective bargaining for for-hire drivers.[131]

Despite intense public campaigning by Uber and Lyft, Seattle passed an ordinance in March 2014 that set up a two-year pilot, which limited each TNC to 150 drivers on the road at any time.[132] After the Council passed the ordinance, Uber, Lyft, and a third TNC, Sidecar, spent over $1.5 million to collect more than 36,000 signatures and put a referendum on the November 2014 ballot to block the new regulations.[133] The Mayor and stakeholders began a 45-day negotiation process to repeal the original ordinance and replace it with a TNC-supported ordinance.[134] The final law lifted the cap on TNC drivers and planned for a release of 200 more taxi licenses over four years.



Seattle Uber driver screenshot.[136]

About six months later and 60 miles away, the state legislature considered and then passed a narrow, bipartisan bill, that established insurance requirements for TNCs and exempted drivers from workers compensation, but that did not, in its final form, preempt local laws.[135]

Back in Seattle, the city council unanimously passed a first-of-its-kind ordinance that would provide TNC, taxi, and other for-hire drivers the right to collectively bargain with Uber, Lyft, and other companies.[137] The law resulted from drivers organizing and advocating for themselves with support from Teamsters Local 117. During the campaign, drivers expressed concern about the TNCs unilaterally changing the payment rates and formula, which resulted in lower and lower net pay, and deactivating them with no warning, explanation, or fair appeal process.[138] The U.S. Chamber of Commerce and Uber continue to challenge the law in court.[139]

In 2017, TNCs lobbied the state legislature to pass more expansive and preemptive legislation (SB 5620) that would establish TNC drivers as independent contractors (with language similar to that adopted in Florida and Texas).[140] To advance their state agenda, TNCs hired some of the most established, respected, and expensive lobbyists on both sides of the political aisle. Uber hired conservative-leaning Gano & Associates, and Lyft hired Martin Loesch, a staffer of the previous Democratic Governor, Christine Gregoire.[141] Thus far, the TNCs have not been successful: their bill died in the state Senate.

Overriding Laws Protecting Workers of Color

As with other cases in which the state interferes with local policymaking authority, laws passed by predominantly white state legislatures can override laws that protect the rights of workers of color.[142] Anecdotal reports from media, interviewees, and even the TNCs themselves, indicate that drivers of taxis, limos, town cars, and TNC vehicles are largely people of color and immigrants. [143] According to Uber's own 2015 survey, 57 percent of Uber drivers identified as people of color across 24 large U.S. markets.[144] In places like Miami-Dade, Lyft said that 80 percent of drivers belong to a "racial minority group,"[145] while Uber said that 90 percent of their Seattle drivers were East African, Indian, or Pakistani.[146] Interviewees or the companies themselves identified driver workforces as made up primarily of people of color and immigrants in at least one city in the four states covered in this report.[147]

Drivers, who in numerous cities are also immigrants, lose anti-discrimination and harassment protections when reclassified as independent contractors.[148] Despite reports that TNC ratings systems may be hard-wired to discriminate against drivers of color, states are writing corporate-sponsored legislation that exclude drivers from anti-discrimination laws, instead allowing the TNCs to have unenforceable internal policies against discrimination.[149]

This corporate rewriting of TNC legislation compounds the competitive disadvantage faced by for-hire drivers in more traditional settings, like taxi drivers. Already outgunned by TNCs' cash and influence, taxi drivers in many cities now must comply with higher standards than TNC drivers, and city officials must decide if they should deregulate all for-hire driving. Meanwhile, taxis struggle to maintain their customer base. In Los Angeles, total taxi trips dropped by nearly 30 percent in the three years after TNCs began operating.[150] In San Francisco, TNCs are making approximately 12 times more daily trips than taxis.[151]

Reduced Access for Passengers with Disabilities

Disability rights advocates have sounded the alarm in many cities and states that TNCs are undoing progress made on access to transportation for all people. Advocates argue that TNCs, by failing to provide accessible vehicles, are in violation of laws protecting people with disabilities. Further, they contend that by driving down the business of taxi companies—which, in many cities, must meet accessibility requirements—TNCs cause fewer accessible vehicles to be on the road. In Philadelphia, wheelchair accessible vehicle medallions plummeted in value after TNCs entered the market, and some of the PPA's efforts to improve accessibility were stymied.[152]

TNCs have claimed that they are exempt from the Americans with Disabilities Act, and have faced litigation over this question.[153] State laws, most of which do not include any enforceable requirements around access, leave out passengers with disabilities; many state TNC bills note that if the TNC does not have an accessible car, their only obligation is to refer a passenger to an accessible car, if available.[154] While Houston was successfully implementing policy to address its community's mobility needs, the Texas legislature passed a law likely rendering those efforts moot.[155]

Undermining Public Transit and the Climate

There is some evidence that TNCs are drawing customers from public transit, which could not only impact the function of transit in the long term but also our air quality and environment. Recent research suggests that, despite possible reduced personal car ownership among riders, overall ride-hailing is "likely to contribute" to increased vehicles miles traveled in major cities.[156]

Transportation systems are affected as some riders migrate from public transportation to TNCs.[157] A study of San Francisco TNC riders found that one third of those surveyed would have used public transit for their most recent trip, were TNCs not available.[158] Another study in New York City found that in one year, subway and bus ridership dropped by 19 million, while TNC ridership increased by 72 million.[159] This has the potential to create a downward cycle of lower revenues and ridership on public transit, and then service cuts, which lowers access for the people who most need it — low-income residents who can't afford to use TNCs.[160]

Movement to TNCs from public transit, biking, and walking also increases traffic congestion and the number of cars that are not held to the same emissions standards as other for-hire vehicles.[161] For example, in San Francisco, the taxi fleet met ambitious emissions standards in 2012.[162] Not only have TNCs not been held to these higher standards, but they have grown exponentially while taxi trips have declined in places like San Francisco.[163] With preemptive state laws, cities and counties may not be able to place those same emissions requirements on TNCs.

Conclusion: Eroding Democratic Governance

One of the primary duties of local government is to study and understand the unique transportation needs of residents, organize the interrelated pieces of the complete system, and regulate the whole. Through the TNC strategy of "barge in, buy, bully, and bamboozle," cities that have made significant investment in transportation have been deprived of the ability to do their jobs, first by TNCs stonewalling them over access to crucial data needed for planning,[164] and second by TNCs pushing forward statutes that, in 41 states, explicitly or implicitly restrict or prohibit their ability to regulate ride-hailing companies at all. Even after state legislatures pass laws preempting local governments from regulating TNCs, cities continue to recognize the need for regulation of TNCs at the local level. When locally-elected policymakers are prevented from creating policies to regulate their own transportation systems and support their own workers, or the policies they do pass are overridden by state legislatures beholden to corporate interests, then local participatory democracy is at stake.

Recommendations to Counter Corporate-Sponsored State Interference and Protect Local Democracy

There is still much state and local legislators can do to bring fairness to the sector and oppose undue influence by corporations in our government.

State Legislators

Reject efforts to preempt local authority with respect to TNCs. Instead they should:

- Delegate regulation of TNCs to local transportation authorities, just as many states have done for taxi regulation, so that local concerns can be factored into policies;
- Alternatively, work closely with cities to develop policies that establish a floor, allowing cities flexibility to exceed and customize TNC regulations; and
- Reverse laws, where they exist, that strip drivers of their rights as employees; require TNCs to pay their fair share into state social insurance programs like unemployment insurance and workers' compensation, and to comply with state labor standards, like minimum wage, anti-discrimination, and fair chance hiring laws.

Local Legislators

- Set standards that ensure safe, fair conditions for for-hire drivers, equitable service for all communities, access for passengers with disabilities, and that our shared environment is protected from unnecessary emissions and congestion;
- Require TNCs to comply with local labor standards, like local minimum wage laws; and be alert to any attempts to define drivers' employment relationship in city legislation and rulemaking (for example, Salem, Oregon);[165]
- Require TNCs to share, with appropriate privacy safeguards, the data that communities need to:
    - ensure that TNCs are strengthening rather than undermining mobility and transportation, especially as they move into other forms of transportation, like autonomous vehicles and delivery trucks;
    - ensure that TNCs are serving all parts of the city and all of its residents;
    - create equity among taxis, other for-hire, and TNCs in terms of regulation and protections; and
    - protect the safety of passengers and the public;
- Learn about and support innovative ways to ensure drivers can:
    - form innovative business models, such as taxi co-ops or non-profits; and
    - come together and negotiate with the companies over wages and working conditions (See Washington and Seattle case study).

Strategies to Counter State Interference for Advocates and Local Legislators

- Stress the careful planning and unique transportation needs of your local communities (i.e., one size does not fit all); call attention to the negative impacts of preemption and put things into personal terms;
- Use data to support efforts to move hearts and minds, and where possible, frame the issue in economic terms;
- Call out (and use litigation to attack) racial injustice when it occurs as part of preemption;
- Support elected officials who lead on local policymaking rights and equity in the industry; and
- Ensure local government attorneys are willing and able to aggressively defend the city against state interference, including through legal challenges if necessary.

Appendix

TNC Talking Points v. the Whole Story

"Forced" to leave? *Council members are forcing Uber to leave;*[166] *customers must "save" Uber.*[167]	No proposals that we reviewed would have banned TNCs from any jurisdiction. See, e.g., Galveston spokesperson Kala McCain: "We did get quite a bit of pushback on social media… People being really upset about the fact that we did not allow Uber to operate, which is obviously not the case. They didn't want to adhere to the city ordinance that was in place."[168]
Economic opportunity? *"The legislation before you today promotes choice and opportunity… by providing … more economic opportunity for drivers.*[169]	TNC jobs largely benefit drivers who are using them to supplement regular earnings. Uber recently settled litigation with the Federal Trade Commission after it wrongly claimed drivers could earn $90,000 yearly.[170] Both driver anecdotes and recent data show drivers earning close to, or sub-minimum wages.[171]
Independent drivers? *Drivers control when, where and how much they drive.*[172] *"[D]rivers operate their own small business."*[173]	Uber uses significant psychological tools and used to offer subprime loans, to keep drivers on the road and tied to Uber.[174] TNCs (Uber in particular) control almost every aspect of a driver's experience, from setting the rates they charge, constant surveillance of acceptance rates and routes, to threats of "deactivation."[175]
A technology company? *"Uber is a technology company…We've built a mobile platform that connects users with drivers giving rides… They're independent contractors who pay a small fee to us to use our platform."*[176]	Federal Judge Edward Chen's analysis of this claim: "Uber is no more a 'technology company' than Yellow Cab is a 'technology company' because it uses CB radios to dispatch taxi cabs, John Deere is a 'technology company' because it uses computers and robots to manufacture lawn mowers, or Domino Sugar is a 'technology company' because it uses modern irrigation techniques to grow its sugar cane."[177]
Consumer choice? *"The legislation before you today promotes choice…"*[178] *"...more than anything, Lyft is about giving people choices."*[179]	After Uber and Lyft left Austin, a taxi driver coop and a TNC nonprofit filled the void. Altogether, 12 TNCs came in, with 7 still operating as of the spring of 2017.[180]

Endnotes

[1] Lisa Rayle, Danielle Dai, Nelson Chan, Robert Cervero and Susan Shaheen, "Just a Better Taxi? A Survey-based Comparison of Taxis, Transit, and Ridesourcing Services in San Francisco," Transport Policy, (2016, Vol. 45).

[2] Galveston Council member Norman Pappous, City council meeting (Feb. 11, 2016). Video available here, http://www.galvestontx.gov/420/G-TV.

[3] We conducted interviews and backgrounding conversations with more than 30 stakeholders.

[4] See the Property Casualty Insurers Association of America updates on Transportation Network Companies, accessed October 23, 2017: http://www.pciaa.net/industry-issues/transportation-network-companies.

[5] See: Texas A&M University, Transportation Institute's map and resources here, https://policy.tti.tamu.edu/technology/tnc-legislation/; and "City Rights in an Era of Preemption: A State-by-State Analysis," National League of Cities, (Feb. 2017), http://www.nlc.org/sites/default/files/2017-03/NLC-SML% percent20Preemption% percent20Report% percent202017-pages.pdf.

[6] See the Law Center to Prevent Gun Violence, accessed September 19, 2017: http://smartgunlaws.org/gun-laws/policy-areas/other-laws-policies/preemption-of-local-laws/.

[7] We are not the first to call out the TNCs "disrupting democracy." See Rick Claypool and Robert Weissman, "Disrupting Democracy: How Uber Deploys Corporate Power to Overwhelm and Undermine Local Government," *Public Citizen*, (May 4, 2016), https://www.citizen.org/sites/default/files/uber-disrupting-democracy-corporate-power-report.pdf.

[8] Marni von Wilpert, "City Governments are Raising Standards for Working People – and State Legislators are Lowering Them Back Down," Economic Policy Institute, (Aug. 26 2017), http://www.epi.org/publication/city-governments-are-raising-standards-for-working-people-and-state-legislators-are-lowering-them-back-down/.

[9] Shaila Dewan, "States Are Blocking Local Regulations, Often at Industry's Behest," New York Times, (Feb. 23, 2015), https://www.nytimes.com/2015/02/24/us/govern-yourselves-state-lawmakers-tell-cities-but-not-too-much.html.

[10] Authors' review of enacted state statutes. At least four states restrict local inclusionary housing policies; three restrict local anti-discrimination measures; and two prohibit requirements to provide jobs to local residents for publicly funded development projects ("local hire"). The four state statutes that prohibit inclusionary housing policies are Arizona Rev. Stat. § 9-461.16; Indiana Code Ann. § 36-1-24.2-1; Tenn. Code Ann. § 66-35-102; and Tex. Local Gov't Code § 214.905. The two state statutes that prohibit local hire are Ohio Rev. Code Ann. 9.49 (2016) and Tennessee Tenn. Code Ann. 12-4-117 (2016). Note: In some states, laws prohibiting rent control have been interpreted as rendering mandatory inclusionary policies on rental housing illegal. See also "City Rights in an Era of Preemption: A State-by-State Analysis," National League of Cities, (Feb. 2017), http://www.nlc.org/sites/default/files/2017-03/NLC-SML% percent20Preemption% percent20Report% percent202017-pages.pdf, citing The National Multifamily Housing Council; and von Wilpert, "City Governments are Raising Standards for Working People – and State Legislators are Lowering Them Back Down."

[11] Abbot said: "…I think a broad-based law by the state of Texas that says across the board, the state is going to pre-empt local regulations, is a superior approach." Patrick Svitek, "Abbott Wants 'Broad-based Law' that Pre-empts Local Regulations," Texas Tribune, (Mar. 21, 2017), https://www.texastribune.org/2017/03/21/abbott-supports-broad-based-law-pre-empting-local-regulations/.

[12] von Wilpert, "City Governments are Raising Standards for Working People—and State Legislators are Lowering Them Back Down."

[13] Both Uber Technologies Inc. and Lyft Inc. now operate multiple types of services, but Uber started with black town cars, "UberBLACK." UberX and Lyft services most closely resemble traditional taxi services and are the focus of this research report and the regulatory fights in cities and states. UberBLACK services typically fell under city or state regulations (Lyft eventually followed with cars similar to UberBLACK). The TNCs quickly propagated the talking point that taxi companies were the bad monopoly and entrenched special interest in the private, for-hire sector. However, the explosive growth of and consumer demand for TNCs has led to a rapid decline in taxis, as cited later in this report. See the San Francisco County Transportation Authority, "TNCs Today: A Profile of San Francisco Transportation Network Company Activity," accessed October 26, 2017: http://www.sfcta.org/tncstoday. For the first time in NYC in July 2017, TNC trips outnumbered taxi trips. Winnie Hu, "Uber, Surging Outside of Manhattan, Tops Taxis in New York City," New York Times, (Oct. 12, 2017), https://www.nytimes.com/2017/10/12/nyregion/uber-taxis-new-york-city.html. Examples in this report will show how state legislation preempted some cities' attempts to create more parity across the for-hire industry, thus enabling TNCs to continue with competitive advantages over taxis.

[14] See, e.g., David Cooper, "Raising the Minimum Wage to $15 by 2024 Would Lift Wages for 41 million American Workers," Economic Policy Institute," (Apr. 26, 2017), http://www.epi.org/publication/15-by-2024-would-lift-wages-for-41-million/.

[15] "States Preempting Local Laws are an Extension of Jim Crow," The Partnership for Working Families, (Aug. 29, 2017), http://www.forworkingfamilies.org/blog/states-preempting-local-laws-are-extension-jim-crow.

[16] Jay Riestenberg, "Uber and Lyft Leave ALEC at Curb," Common Cause, (Sep. 25, 2014), http://www.commoncause.org/democracy-wire/uber-and-lyft-leave-alec-at-curb.html.

[17] Rosalind S. Helderman, "Uber pressures regulators by mobilizing riders and hiring vast lobbying network," *The Washington Post*, (Dec. 13, 2014), https://www.washingtonpost.com/politics/uber-pressures-regulators-by-mobilizing-riders-and-hiring-vast-lobbying-network/2014/12/13/3f4395c6-7f2a-11e4-9f38-95a187e4c1f7_story.html. See also ALEC Exposed, accessed August 5, 2017: http://www.alecexposed.org/wiki/Transportation_Network_Company_Act_Exposed

[18] NetChoice also joined the Political Action Committee that tried to overturn Austin's TNC ordinance. Staff report, "More Austin Groups Join Effort to Quash City's Uber, Lyft Rules," Austin Business Journal, (Jan. 15, 2016), https://www.bizjournals.com/austin/news/2016/01/15/more-austin-groups-join-effort-to-quash-citys-uber.html. NetChoice's website lists Lyft, but not Uber, as a member as of August 28, 2017.

[19] NetChoice biography, accessed August 5, 2017: https://netchoice.org/about/netchoice-staff/steve-delbianco/

[20] https://netchoice.org/wp-content/uploads/ALEC-slides-for-ridesharing-May-2015-FINAL.pdf, and https://netchoice.org/library/ride-sharing-presentation-alec/.

[21] Nicholas Riccardi, "US Conservatism Expands to Final Frontier: City Hall," Associated Press, (Jul. 27, 2017), https://www.apnews.com/d0ce048058d343b28fc90382926636e2?utm_campaign=SocialFlow&utm_source=Twitter&utm_medium=AP_Politics.

[22] Authors' review of enacted state laws.

[23] Some of the states that are silent on preemption may limit local authority via other legal theories. These states include CA, CT, KS, MN, NE, SD, and WA. Detailed notes on 48 state laws on file with authors.

[24] Caleb Weaver, Uber, testimony to Washington Senate, Committee on Transportation, (Feb. 8, 2017). This is one example among many. Video available here, www.tvw.org/watch/?clientID=9375922947&eventID=2017021144&eventID=2017021144&autoStartStream=true.

[25] See, e.g., the Partnership for Working Families, Brief for the Partnership for Working Families and the Southern Poverty Law Center as Amicus Curiae, p. 23, *Lewis v. Alabama*, No. 2:16-CV-690-RDP, 2017 U.S. Dist. LEXIS 13565 (N.D. Ala. Jan. 31, 2017), http://www.forworkingfamilies.org/sites/pwf/files/publications/PWF% percent20SPLC% percent20Brief.pdf.

[26] Nicholas Diakopoulos, "How Uber Surge Pricing Really Works," *Washington Post*, (Apr. 17, 2015), https://www.washingtonpost.com/news/wonk/wp/2015/04/17/how-uber-surge-pricing-really-works/?utm_term=.7e55a885654b.

[27] It is no surprise then that Lyft is lobbying at the federal level on independent contractor policies. Chris Opfer, "Uber, Lyft Each Add Half of Ex-Power Couple as Lobbying Quickens," *Bloomberg BNA*, (Jul. 26, 2017), https://www.bna.com/uber-lyft-add-n73014462300/.

[28] Cyrus Farivar, "Uber Really Doesn't Want its Drivers to be Considered Employees," Ars Technica, (Sep. 21, 2017), https://arstechnica.com/tech-policy/2017/09/uber-really-doesnt-want-its-drivers-to-be-considered-employees/. In Britain, see Prashant S. Rao, "Uber Hit With New Blow in London as Panel Says Drivers Aren't Self-Employed," *New York Times*, (Nov. 10, 2017), https://www.nytimes.com/2017/11/10/business/uk-uber-london.html. And see, e.g., Uber Cases Consolidated Appeals, No. 14-16078 (9th Cir Ct. Apps), Bekele v. Lyft, 199 F. Supp.3d 284 (D.Ma 2016).

[29] Karla Walter and Kate Bahn, "Raising Pay and Providing Benefits for Workers in a Disruptive Economy," Center for American Progress, (Oct. 13, 2017), https://www.americanprogress.org/issues/economy/reports/2017/10/13/440483/raising-pay-providing-benefits-workers-disruptive-economy/.

[30] Uber then settled the case, paying a fine of $77,000 and the parties agreed that classification might change with legislative action. See: In the Matter of the Petition for a Finding of the Failure to Insure Workers' Compensation Liability, and Assessment of a Civil Penalty Against, Uber Technologies, Inc and Rasier LLC, 2015 WL 4699265 (Alaska, Department of Labor and Workforce Development, Jul. 31, 2015); Advisory Opinion on the Employment Status of Uber Drivers (Oregon Bureau of Labor and Industry, Oct. 14, 2015), http://uberlawsuit.com/Oregon.pdf; Berwick v. Uber Technologies, Inc., No. 11-46739, 2015 WL 4153765 , (CA Labor Commissioner, Department of Industrial Relations, Division of Labor Standards Enforcement, Jun. 4, 2015); Uber, No, 4371509 (California Unemployment Appeals Board, Jun. 1, 2015); No. 016-23858, (NY Unemployment Insurance Appeals Board, Jun. 9, 2017) ; While state agencies, applying current law, are coming to the conclusion that drivers are Uber's employees, class action litigation on the matter has been stymied by the TNCs' use of forced arbitration and class action waivers. See, e.g., Uber Cases Consolidated Appeals, No. 14-16078 (9th Cir, Sep. 22, 2017) Order staying cases pending U.S. Supreme Court decisions in National Labor Relations Board v. Murphy Oil USA, Inc., No 16-307; Epic Systems Corp. v. Lewis, No 16-285; and Ernst & Young LLP v. Morris, No. 16-300), http://cdn.ca9.uscourts.gov/datastore/general/2017/09/22/14-16078%209.22%20order.pdf; Bekele v. Lyft, 199 F. Supp.3d 284 (D.Ma 2016).

[31] Press Release, "Uber Agrees to Stop Worker Misclassification in Alaska," State of Alaska, Department of Labor and Workforce Development, (Sep. 3, 2015), http://labor.alaska.gov/news/2015/news15-38.pdf.

[32] Authors' review of enacted state laws.

[33] Multiple people testified against the more industry-friendly Miami-Dade ordinance that passed, complaining that it did not have strong enough language and requirements for people with disabilities. Taxi drivers and a driver advocate testified against the same ordinance because of disparate standards for insurance. Miami-Dade Board of Commissioners (May 3, 2016), http://miamidade.gov/wps/portal/Main/webcasting. In Houston, members of the disability community were active on the task force to formulate a final ordinance. In Houston, see Florian Martin, "Houston City Council Makes Changes to 'Uber' Ordinance," Houston Public Media, (Oct. 15, 2015), https://www.houstonpublicmedia.org/articles/news/2015/10/15/124609/houston-city-council-makes-changes-to-uber-ordinance/, and George Powers and Richard Petty, "Advocating for Transportation Network Company (TNC) Access in Houston, Texas: A Case Study," Prepared for the Forum on Disability and Transportation, accessed October 27, 2017: www.ilru.org/sites/default/files/resources/transportation/Houston_Case_Study.docx. In Philadelphia, advocates for riders with disabilities were also active in upholding and improving accessibility. Conversation with Council member Bobby Henon's staff (Aug. 18, 2017). Notes on file with authors. See also Chris Morran, "Judge Rules Ubers is Still Illegal in Philadelphia, Despite Temporary Truce," Consumerist, (Sep. 29, 2016), https://consumerist.com/2016/07/13/judge-rules-uber-is-still-illegal-in-philadelphia-despite-temporary-truce/.

[34] Data on city ordinances from the Texas House of Representatives, House Research Organization, "Texas May Consider How Transportation Network Companies are Regulated," (Mar. 3, 2017), obtained by public records request. The requirement, or lack thereof, of fingerprint background checks is a complicated issue that NELP has taken up elsewhere. See Nayantara Mehta, "Ensuring Fairness in Background Checks for On-demand Work," National Employment Law Project, (Jun. 2016), http://www.nelp.org/publication/ensuring-fairness-in-background-checks-for-on-demand-work/.

[35] The Texas Department of Licensing and Regulation was tasked with developing a fee that would cover the costs of administering the regulations. As of September 15, 2017, it had proposed rules, including a $10,500 application fee, with a $7,500 annual renewal fee, estimating that ten TNCs would apply. See: https://www.tdlr.texas.gov/tnc/tncprop.htm.

[36] "Dynamic" or "surge" pricing is the practice of the TNCs increasing rates at times when rider demand outstrips driver supply. They argue that this serves to increase the supply of drivers, and then bring prices back down. Some state laws ban surge pricing during a state of emergency.

[37] Given its larger capitalization and generally larger market share, Uber has led the legislative and public relations fights in two ways: it spent more on lobbying efforts than Lyft, and it was the most prominent public voice. As such, much of this section focuses on Uber's activities specifically. However, Lyft and other much smaller TNCs have benefitted from the policies ultimately won through these tactics—with the additional benefit of being seen as more cooperative. In the cities and states reviewed in-depth for this report, in only one instance was spending nearly similar: in 2014 when Uber and Lyft spent basically the same amount of money on gathering referendum signatures in Seattle. Regarding market share, according to Second Measure, among US credit card users, Uber's market share is 77 percent to Lyft's 23 percent (the two TNCs are considered the entire market in this research). See Leslie Hook, "Uber Loses Ground in US as Rival Lyft Accelerates," *Financial Times*, (Jun. 18, 2017), https://www.ft.com/content/b4fb76a6-52dd-11e7-bfb8-997009366969.

[38] Kim Lyons, "PUC Finalizes Uber's Two-Year Experimental License," *Pittsburgh Post-Gazette*, (Jan. 29, 2015), http://www.post-gazette.com/news/transportation/2015/01/29/Pennsylvania-PUC-finalizes-ride-share-firm-Uber-s-two-year-experimental-license/stories/201501290285.

[39] Fabiola Cineas, "Uber to Pay Pa. $3.5M to Settle Dispute Over Illegal Operation," *Philadelphia Magazine*, (Apr. 7, 2017), http://www.phillymag.com/business/2017/04/07/uber-pay-pa-3-5m-settle-dispute-illegal-operation/. Lyft settled with the PUC for $250,000 nearly two years earlier. See Kim Lyons, "Lyft Settlement with Pennsylvania PUC Finalized, Pittsburgh Post-Gazette, (Jul. 16, 2015), http://www.post-gazette.com/news/state/2015/07/16/Lyft-settlement-with-Pennsylvania-PUC-finalized-resolving-Pittsburgh-area-complaint/stories/201507160185. The number of Uber violations sourced from emails obtained in a Right-to-Know request made public by PennLive, and accessed August 8, 2017, here: https://www.scribd.com/document/334948493/Entirety-of-Pittsburgh-s-Right-to-Know-response-for-emails-sent-between-mayor-s-office-and-Uber.

[40] Victor Fiorillo, "PPA Impounds UberX Vehicles in Undercover Sting Operation," *Philadelphia Magazine*, (Oct. 26, 2014), http://www.phillymag.com/news/2014/10/26/uber-philadelphia-uberx-ppa-sting-impounds/.

[41] Paul Nussbaum and Claudia Vargas, "Phila. Crackdown on UberX Continues; Ride-share Firm Vows to Go on," *Philadelphia Inquirer*, (Oct. 28, 2014), http://www.philly.com/philly/business/20141028_Phila__crackdown_on_UberX_continues__ride-share_firm_vows_to_go_on.html.

[42] Jason Laughlin, "UberX Marks a Year Operating Illegally in Philadelphia," *Philadelphia Inquirer*, (Oct. 24, 2015), http://www.philly.com/philly/hp/news_update/20151024_UberX_marks_a_year_operating_illegally_in_Philadelphia.html

[43] Anna Orso, "New Bill Seeks to Legalize Rapidly-Growing Uber in Philadelphia," BillyPenn.com, (Aug. 27, 2015), https://billypenn.com/2015/08/27/new-bill-seeks-to-legalize-rapidly-growing-uber-in-philadelphia/.

[44] Carl Bialik, "How Uber's Truce with Regulators Played out During the DNC," FiveThirtyEight, (Jul. 29, 2016), https://fivethirtyeight.com/features/how-ubers-truce-with-regulators-played-out-during-the-dnc/.

[45] See, e.g.: Jason Williams, "Uber, Lyft Arrive Amid Praise, Scrutiny," *Cincinnati Enquirer*, (Apr. 9, 2014), http://www.cincinnati.com/story/news/2014/04/09/uber-lyft-raising-questions-safety-fairness/7506935/; and Claire Tsosie, "AmEx, Uber Offer Free Holiday Rides from 11 Airports," NerdWallet, (Nov. 17, 2016), https://www.nerdwallet.com/blog/credit-cards/amex-and-uber-offer-free-holiday-rides-from-the-airport/.

[46] Accessed October 10, 2017: https://www.uber.com/en-SG/drive/resources/rider-referral/.

[47] "How Not to get Tricked by Uber and Lyft Driver Incentives," Rideshare Dashboard, (Jan. 5, 2017), http://ridesharedashboard.com/2017/01/05/not-get-tricked-uber-lyft-driver-incentives/. In Philadelphia, Uber promised to spend "at least" $2.5 million to incentivize drivers during high demand, and in discounts for riders during the summer of 2016. See also "Announcing: Philly Moves Together," Uber Blog, (Jul. 7, 2016), https://www.uber.com/blog/philadelphia/philly-moves-together/.

[48] The share of US adults owning a smart phone grew from 35 percent in 2011, to 77 percent in 2016. "Mobile Fact Sheet," Pew Research Center, (Jan. 12, 2017), http://www.pewinternet.org/fact-sheet/mobile/.

[49] Fabiola Cineas, "Uber to Pay Pa. $3.5M to Settle Dispute Over Illegal Operation." Uber has encouraged drivers to operate outside of the law in, for example: Philadelphia, see Nussbaum and Vargas, "Phila. Crackdown on UberX Continues; Ride-share Firm Vows to Go On;" South Florida airports, see Brittany Wallman, "Uber: 'We Cannot Operate' Under New Broward Law," *Sun Sentinel*, (Apr. 29, 2015), http://www.sun-sentinel.com/local/broward/fl-uber-law-vote-20150428-story.html; the Hamptons (outside of New York City), see Daniel Prendergast, "Uber Urges City Drivers to Pick Up Illegal Fares in Hamptons," *New York Post*, (Mar. 10, 2015), http://nypost.com/2015/03/10/uber-urges-city-drivers-to-pick-up-illegal-fares-in-hamptons/; and Quebec, see Jonathan Montpetit and Cecilia MacArthur, "Uber Paying its Drivers to Flout Quebec Law," CBC News, (Oct. 4, 2016), http://www.cbc.ca/news/canada/montreal/uber-paying-its-drivers-to-flout-quebec-law-1.3789784.

[50] Fabiola Cineas, "Uber to Pay Pa. $3.5M to Settle Dispute Over Illegal Operation." Uber also said that it would cover costs for drivers whose cars were impounded. Victor Fiorillo, "Uber Calls PPA UberX Sting a "Deplorable Charade," *Philadelphia Magazine*, (Oct. 26, 2014), http://www.phillymag.com/news/2014/10/26/uber-calls-ppa-uberx-sting-deplorable-charade/.

[51] As of July 2015, both companies were appealing most of their drivers' citations: WSVN News, "Taken for a Ride," (Jul. 16, 2015), http://wsvn.com/news/taken-for-a-ride/. The Board of Commissioners voted on a final settlement November 21, 2017, with Uber paying just $2.4 million of the $4.3 million in fines owed by its drivers. Douglas Hanks, "Uber Fought the Law in Miami – and Only Has to Pay Half of its $4 million in Fines," *Miami Herald*, (Nov. 22, 2017), http://www.miamiherald.com/news/local/community/miami-dade/article185897063.html. This long appeal process has negative impacts on drivers, as some of them had delinquent citations sent to collections, and a few drivers reportedly had liens places on their personal property.

[52] "'Everybody that got ticketed, Uber paid the fines and took care of all the legal issues,' ...Uber did that for...hundreds of other drivers." David Pitman, "Meet Houston's First Licensed Uber Driver," Houston Public Media, (Nov. 10, 2014), https://www.houstonpublicmedia.org/articles/news/2014/11/10/54119/meet-houstons-first-licensed-uber-driver/. Patricia Mazzei, "Lawsuit Reignites Miami-Dade Policy Fight over Uber, Lyft," *Miami Herald*, (Feb. 10, 2015), http://www.miamiherald.com/news/local/community/miami-dade/article9704705.html.

[53] Uber and/or Lyft entered some markets legally at the very beginning of operations by either offering free rides, or by only suggesting donations to drivers. By not requiring payment, they would not fall under taxi or other for-hire vehicle laws. See, e.g., Jason Williams, "Uber, Lyft Arrive Amid Praise, Scrutiny," *Cincinnati Enquirer*, (Apr. 9, 2014), http://www.cincinnati.

com/story/news/2014/04/09/uber-lyft-raising-questions-safety-fairness/7506935/, and Jayme Fraser, "Uber Decides to Defy City on Ride Charges," *Houston Chronicle*, (Apr. 15, 2014), http://www.houstonchronicle.com/news/politics/houston/article/Uber-decides-to-defy-city-on-ride-charges-5405208.php. In other places, like Philadelphia, TNCs and their advocates argued that the service simply fell outside of the existing regulatory framework.

[54] Mayor Carlos Gimenez memo to the Miami-Dade Board of Commissioners, "Settlement Options for Transportation Network Entities Outstanding Citations," (Nov. 14, 2017), accessed November 21, 2017: http://www.miamidade.gov/govaction/legistarfiles/Matters/Y2017/172627.pdf.

[55] Joseph Rose, "Uber vs. Portland: City Has Hit Company With $67,750 in Fines; Federal Court Hearing Date Set," *The Oregonian*, (Dec. 15, 2014), http://www.oregonlive.com/commuting/index.ssf/2014/12/uber_vs_portland_federal_judge.html, and Joseph Rose, "Uber Pays $67,750 in Portland as Taxi Recommendations Go to City Council," *The Oregonian*, (Apr. 6, 2015), http://www.oregonlive.com/commuting/index.ssf/2015/04/user_pays_67750_in_portland_fi.html.

[56] Mike Isaac, "How Uber Deceives the Authorities Worldwide," *New York Times*, (Mar. 3, 2017), https://www.nytimes.com/2017/03/03/technology/uber-greyball-program-evade-authorities.html?_r=0.

[57] Fiorillo, "PPA Impounds UberX Vehicles in Undercover Sting Operation."

[58] Isaac, "How Uber Deceives Authorities Worldwide," and Mike Isaac, "Justice Department Expands its Inquiry into Uber's Greyball Tool," *New York Times*, (May 5, 2017), https://www.nytimes.com/2017/05/05/technology/uber-greyball-investigation-expands.html, and Kartikay Mehrotra, "Uber Greyball Investigation Expands to Multiple U.S. Cities," Bloomberg, (May 10, 2017), https://www.bloomberg.com/news/articles/2017-05-10/uber-greyball-investigation-expands-to-multiple-u-s-cities.

[59] Portland Bureau of Transportation, "Greyball Audit Report," (Apr. 2017), https://www.portlandoregon.gov/saltzman/article/637492.

[60] Batheja, "Uber, Lyft Are Rolling in 5 Texas Cities, but the Road Ahead has Some Bumps."

[61] Lilly Rockwell, "Austin City Council Gives Green Light to Ridesharing Services," *Austin American-Statesman*, (Oct. 16, 2014), http://www.mystatesman.com/news/local/austin-city-council-gives-green-light-ridesharing-services/8FV6I2GwEpV3oec0dyyjFP/.

[62] Joe Martin, "City Responds to Lyft's Decision to Leave Houston," *Houston Business Journal*, (Nov. 10, 2014), https://www.bizjournals.com/houston/blog/2014/11/city-responds-to-lyfts-decision-to-leave-houston.html, and Madlin Mekelburg, "Uber Announces Plan to leave Houston if City Keeps Existing Regulations," *Texas Tribune*, (Apr. 27, 2016), https://www.texastribune.org/2016/04/27/uber-leave-houston-if-city-keeps-existing-regulati/.

[63] Al Ortiz, "Mayor Turner Announces Potential Agreement to Keep Uber Operating in Houston," *Houston Public Media*, (Nov. 17, 2016), https://www.houstonpublicmedia.org/articles/news/2016/11/17/177725/mayor-turner-announces-potential-agreement-to-keep-uber-operating-in-houston/.

[64] Uber claimed that "nearly 30,000 Austinites" had signed the petition. "Kitchen's Uber: Horse & Carriage," Uber blog, (Nov. 4, 2015), https://www.uber.com/blog/austin/kitchens-uber-horse-carriage/. Uber then immediately ran a local ad campaign urging all of city council to not take Uber away. Melissa Yeager, "Uber Combats Regulations in Austin with New Ad Campaign," Sunlight Foundation blog post (Nov. 10, 2015), http://sunlightfoundation.com/blog/2015/11/10/uber-combats-regulations-in-austin-with-new-ad-campaign/

[65] Uber's spokesperson said that the proposal being considered in November 2015 would "eliminate" ride-hailing. "Kitchen's Uber: Horse & Carriage."

[66] Nellie Bowles, "'We're Just Getting Started': Inside Austin's Contentious Clash with Uber and Lyft," *The Guardian*, (Mar. 10, 2016), https://www.theguardian.com/technology/2016/mar/10/uber-lyft-austin-ann-kitchen-sxsw-texas.

[67] List of registered lobbyists for 2015-16 obtained by public records request to the City of Austin.

[68] Camila Domonoske, "Uber, Lyft Vow to Stop Driving in Austin After Voters Keep Regulations," NPR, (May 9, 2016), http://www.npr.org/sections/thetwo-way/2016/05/09/477310339/uber-lyft-vow-to-stop-driving-in-austin-after-voters-affirm-regulations.

[69] Lora Kolodny, "Uber and Lyft Pause Austin Operations in Standoff over Regulation," TechCrunch.com, (May 9, 2016), https://techcrunch.com/2016/05/09/uber-and-lyft-pause-austin-operations-in-standoff-over-regulation/.

[70] Domonoske, "Uber, Lyft Vow to Stop Driving in Austin After Voters Keep Regulations."

[71] Madlin Mekelburg, "Texas Enacts Statewide Regulations for Uber, Lyft," *Dallas News*, (May 29, 2017), https://www.dallasnews.com/news/texas-legislature/2017/05/29/texas-enacts-statewide-regulations-uber-lyft.

[72] Ben Wear, "Deja Uber: Legislators Look to Override Local Ride-Hailing Rules," *Austin American-Statesman*, (Nov. 20, 2016), http://www.mystatesman.com/news/state--regional-govt--politics/wear-deja-uber-legislators-look-override-local-ride-hailing-rules/KozpsqKEAp0ruhjfotOWWL/.

[73] See witness lists from the Texas Senate, State Affairs Committee, (May 11, 2017), and the Texas House of Representatives, Transportation Committee, (Mar. 16, 2017). Available through Committee websites, and on file with authors.

[74] Ben Wear, "Uber-Lyft Legislation runs out of Gas in Texas House," *Austin American-Statesmen*, (May 15, 2015), http://www.mystatesman.com/news/state--regional-govt--politics/uber-lyft-legislation-runs-out-gas-texas-house/PNTNP7RWFfHGEBMfyg7RnJ/.

[75] Author's review of Texas lobbying data downloaded August 1, 2017 – see footnote 77. See also Michael King, "Lege for Sale? Uber and Lyft Splurge on Lobby to Deregulate Themselves," *Austin Chronicle*, (Mar. 14, 2017), https://www.austinchronicle.com/daily/news/2017-03-14/lege-for-sale/. There are discrepancies in data based on date of download, but no significant changes.

[76] Depending on the data set, we frequently had to add lobbyist and spending data for different iterations of the name "Uber Technologies, Inc." Lyft typically had only one entry. Florida: see 2016 annual and the first half of 2017 Florida Legislature

Total Compensation by Principal reports, available here, https://floridalobbyist.gov/CompensationReportSearch/CompAggregateTotals. Florida allows ranges – these state-generated aggregate reports use midpoints, except where the amount exceeds $50k it uses the actual dollar figure. Oregon: search Lobbyist Client/Employer Expenditures by quarter here, https://apps.oregon.gov/OGEC/EFS/Records. Pennsylvania: search quarterly expenses by Principal here, https://www.palobbyingservices.pa.gov/Public/wfSearch.aspx. Texas: lobbying clients can report expenditures in ranges rather than precise dollar amounts. Nearly every client does this. We downloaded each year of data, and cleaned it to allow for creating minimum and maximum amounts. Search raw data usually titled "Registered Lobbyists with Clients," sorted by Client Name, here, https://www.ethics.state.tx.us/dfs/loblistsREG.htm. Washington: Search the L3 Reports which sum annual lobbying expenses by Employer here for 2016 and later, https://accesshub.pdc.wa.gov/home/employers, and for 2015 and earlier here, http://web.pdc.wa.gov/MvcQuerySystem/Lobbying/Employers?Length=8. Ohio is not included because the preemptive law passed in 2015.

77 See Walmart's "2016 Lobbying Disclosure Report," accessed October 28, 2017: http://s2.q4cdn.com/056532643/files/doc_downloads/ESG/2016-Shareholder-Report-Q2-2017-Update.pdf. It reported up to $2.9 million. Using directly comparable data for Uber and Lyft, their five-state total maximum would be $3.1 million.

78 James Gormley, "Uber Spent $1.8 Million during 2017 Session, Topping the List of Albany Lobbying Efforts," *Legislative Gazette*, (Oct. 19, 2017), http://legislativegazette.com/uber-spent-1-8-million-during-2017-session-topping-the-list-of-albany-lobbying-efforts/.

79 Also, during the New York City effort to regulate TNCs, "[Democratic Mayor Bill] DeBlasio was riding a wave of popularity, and it seemed like this was a battle he couldn't lose. Until Plouffe went to work. … It was a brass knuckled, no holds barred political fisticuffs, Democrat against Democrat.… In a masterful display of irony, Plouffe – the mouthpiece of a company valued at $51 billion that had been called by Salon's Andrew Leonard the closest thing we have today to robber baron capitalism – called into question the mayor's progressive bona fides." Steven Hill, "The Battle in Seattle for the Soul of the Democratic Party - Over Uber," Huffington Post, (Dec. 17, 2016), https://www.huffingtonpost.com/steven-hill/the-battle-in-seattle-for_b_8833340.html. See also Emily Badger and Zachary A. Goldfarb, "Uber Hired David Plouffe when it Realized 'Techies' Can't Do Politics," *Washington Post*, (Aug. 19, 2014), https://www.washingtonpost.com/news/wonk/wp/2014/08/19/uber-hired-david-plouffe-when-it-realized-techies-cant-do-politics/?utm_term=.9e448f48d9b6. Uber has deployed Plouffe to its regulatory battles in Austin, Portland, Seattle, Boston, New York City, and other jurisdictions. In 2017, Uber contracted with another Obama alum in former Attorney General Eric Holder, who reviewed and made recommendations for the company's "workplace culture" following public accusations from a former employee of harassment and discrimination. Mike Isaac, "Uber Embraces Major Reforms as Travis Kalanick, the C.E.O., Steps Away," *New York Times*, (Jun. 13, 2017), https://www.nytimes.com/2017/06/13/technology/uber-travis-kalanick-holder-report.html.

80 Karen Weise, "This is How Uber Takes Over a City," *Bloomberg*, (Jun. 23, 2015), https://www.bloomberg.com/news/features/2015-06-23/this-is-how-uber-takes-over-a-city.

81 Matt Largey, "Uber/Lyft PAC Spent More than $5 million to Campaign for Prop 1 Last Month," KUT (Austin NPR), (Apr. 29, 2016), http://kut.org/post/uberlyft-pac-spent-more-5-million-campaign-prop-1-last-month

82 Data for all companies as lobbying clients accessed September 30, 2017: https://www.followthemoney.org/. Data is periodically updated.

83 See quarterly "Master Spreadsheet of All Lobbyist Contacts," available here, https://www.portlandoregon.gov/auditor/71329. Uber had 318 contacts to Lyft's 135.

84 See the 2013 annual report "Lobbying in Miami-Dade County," County Clerk, accessed here, http://www.miamidade.gov/cob/lobbyist-reports.asp

85 Kyle Constable, "Years Behind Other States, Rules for Uber, Lyft Win Final Passage," *CT Mirror*, (Jun. 7, 2017), https://ctmirror.org/2017/06/07/years-behind-other-states-rules-for-uber-lyft-win-final-passage/.

86 We received correspondence between legislators and their staff, and Uber, Lyft, and their lobbyists from Florida, Ohio and Oregon state legislatures, and from city/county representatives in Austin, Galveston (city attorney), Miami-Dade, Midland and Seattle. We found evidence that only Uber, not Lyft, sent draft legislation. With the exception of Seattle, email suggests that only Uber engaged deeply in the legislative process. In Seattle, there is evidence of Lyft's lobbyist's engagement with the Mayor's office. Email from Uber's Jon Isaac, Oregon Public Affairs Manager, to Senator Chris Edwards and Representative Brian Clem, "Draft Bill Language," (Sep. 22, 2016). In this email Isaacs notes that it is "the final language for submission to legislative council" [sic]. Email from Robert Klaffky, VanMeter Ashbrook to Ohio HB 237 primary sponsor Rep. Mike Duffey, "TNC draft," (Mar. 6, 2015).

87 Conversation with Washington State Representative Mike Sells (Aug, 14, 2017). Notes on file with authors.

88 Miriam Rozen, "Austin's Lobbyists Ride High with Uber and Lyft," *American Lawyer*, (Jul. 1, 2017), http://www.americanlawyer.com/id=1202791073174/Austins-Lobbyists-Ride-High-With-Uber-and-Lyft?mcode=0&curindex=0&curpage=ALL.

89 Kim Lyons, "Tussle over Direction of Pa. Ride Share Legislation," *Pittsburgh Post-Gazette*, (Apr. 26, 2015), http://www.post-gazette.com/business/pittsburgh-company-news/2015/04/26/Uber-lobbyists-may-be-roadblock-to-ride-share-legislation-in-Pa/stories/201504260061. Per a Senate Democratic staffer, Uber weighed in heavily on the bill.

90 Emails obtained by public records request for Senator Jeff Brandes' and his staff. This exchange was between staff and Uber's Cesar Fernandez, November 2016. Documents on file with authors.

91 Our private conversations with legislative staff confirmed this observation. One Texas legislature staffer was actually surprised when asked about the independent contractor language in Texas HB 100.

92 Oregon HB 3246 did not pass in 2017. Representative Ann Lininger was a chief sponsor and also introduced amendment 4. See legislative history and amendments here, accessed October 27, 2017: https://olis.leg.state.or.us/liz/2017R1/Measures/Overview/HB3246.

93 Emails obtained by public records request. Document on file with authors. See also Weise, "This is How Uber Takes Over a City."

[94] Email from Andrew Krick, VanMeter Ashbrook, to Alex Penrod and Stephanie Kaylor, "HB 237 Sponsor Testimony," (Jun. 5, 2015). Document on file with authors.

[95] See Megan Sirjane Samples, Florida League of Cities, testimony to the Florida House of Representatives, Government Affairs Committee, (Feb. 21, 2017).

[96] See League of Oregon Cities, "Testimony to the Oregon House Business and Labor Committee," (Apr. 3, 2017), accessed July 4, 2017: https://olis.leg.state.or.us/liz/2017R1/Measures/Exhibits/HB3246.

[97] See Ohio Municipal League testimony to the Ohio House of Representatives, Government Accountability and Oversight Committee, (Jun. 22, 2015), obtained by public records request.

[98] Conversations with Council member Ann Kitchen (Aug. 15, 2017), and Council member Mike O'Brien (Aug. 9, 2017). Notes on file with authors.

[99] Emails obtained by public records request. Brooke Steger, Uber, to Council President Sally Clark, "Uber Follow up," (Jan. 14, 2014).

[100] Brad Stone, The Upstarts: How Uber, Airbnb, and the Killer Companies of the New Silicon Valley are Changing the World, Little, Brown & Company (2017), p. 191.

[101] Cecilia Kang, "Pittsburgh Welcomed Uber's Driverless Car Experiment. Not Anymore," *New York Times*, (May 21, 2017), https://www.nytimes.com/2017/05/21/technology/pittsburgh-ubers-driverless-car-experiment.html.

[102] This tactic is not dead. In September 2017, both Uber and Lyft announced that they would leave Everett, WA, as a new TNC ordinance there was set to take effect. The city then quickly announced that it would suspend enforcement pending further conversations with the two TNCs. See Rikki King, "Ride-share Firms Uber, Lyft Seek Fewer Rules in Everett," *Everett Herald*, (Oct. 4, 2017), https://www.heraldnet.com/news/ride-share-firms-uber-lyft-seek-fewer-rules-in-everett/.

[103] "The Uber-loving public clobbered county commissioners in meetings and filled their email inboxes with hate mail. Business leaders denounced the county for running Uber off. Commissioners gave in Tuesday, dismantling its months-old law to peel off elements to which Uber objected. They said the public had spoken, and they were eager to settle one of the biggest fights County Hall has ever hosted." Brittany Wallman, "Uber is Back in Broward County," *South Florida Sun Sentinel*, (Oct. 15, 2015), http://www.sun-sentinel.com/local/broward/fl-uber-final-vote-20151013-story.html.

[104] Madlin Mekelburg, "Uber to Leave Third Texas City over Background Check Laws," *Texas Tribune*, (Mar. 9, 2016), https://www.texastribune.org/2016/03/09/uber-leave-third-texas-city-over-background-check-/. As noted elsewhere in this report, Uber and Lyft later left Austin, and Lyft, but not Uber, left Houston.

[105] In our review, this was the case in Midland, TX, where the council amended its ordinance after Uber suspended service. See Cassie Burton, "TNC Amended Ordinance Could Spell Uber's Return," Midland Reporter-Tribune, (May 4, 2016). http://www.mrt.com/business/article/TNC-amended-ordinance-could-spell-Uber-s-return-9286751.php. And in Miami-Dade County, where the commissioners advanced the industry-friendly ordinance. Also, while no one ever proved that any TNC was directly behind the recall attempt on Council member Ann Kitchen, The Guardian reported that people understood that her leadership on the TNC ordinance was the primary cause of it. "And Uber did not dispute that it precipitated the recall movement. Mullin, the Uber spokesperson, did not dispute the assertion that the company galvanized the effort that has now led to moves to oust Kitchen." Bowles, "'We're Just Getting Started': Inside Austin's Contentious Clash with Uber and Lyft."

[106] Travis Kalanick is one of the founders and the former CEO who resigned from the company during the summer of 2017 amidst an array of lawsuits and bad publicity.

[107] Brad Stone, "The $99 Billion Idea: How Uber and Airbnb Fought City Hall, Outlasted Rivals, Won Over the People, and Figured out the Sharing Economy," *Bloomberg Businessweek*, (Jan. 26, 2017), https://www.bloomberg.com/features/2017-uber-airbnb-99-billion-idea/.

[108] Tim Elfrink, "UberX Will Launch in Miami Today, Defying Miami-Dade's Taxi Laws," *Miami New Times*, (Jun. 4, 2014), http://www.miaminewtimes.com/news/uberx-will-launch-in-miami-today-defying-miami-dades-taxi-laws-6533024.

[109] Douglas Hanks, "In Email Blitz, Uber Threatens to Pull Out of Miami-Dade," *Miami Herald* (Jan. 14, 2016), http://www.miamiherald.com/news/local/community/miami-dade/article54698295.html.

[110] "Douglas Hanks, "Pro-Uber Bill Wins Early Vote in Miami-Dade After Foe Stands Down," *Miami Herald*, (Jan. 20, 2016), http://www.miamiherald.com/news/local/community/miami-dade/article55610460.html.

[111] Michael Auslen, "Plan to Regulate Uber, Lyft All But Dead in Florida Legislature," *Miami Herald*, (Mar. 20, 2016), http://www.miamiherald.com/news/politics-government/state-politics/article65208997.html.

[112] Hanks, "In Email Blitz, Uber Threatens to Pull Out of Miami-Dade."

[113] See Guy Holburn and Davin Raiha, "Startups are Turning Customers into Lobbyists," *Harvard Business Review*, (Oct. 24, 2017), https://hbr.org/2017/10/startups-are-turning-customers-into-lobbyists.

[114] See screenshots in this report of Portland with a petition, and Miami-Dade with emailing. For an example of phone calls, see the image in this article: Ben Wear, "Uber Puts Heat on Kitchen With Horse-and-Buggy Gibe," *Austin American-Statesman*, (Nov. 8, 2015), http://www.mystatesman.com/news/local/wear-uber-puts-heat-kitchen-with-horse-and-buggy-gibe/FhujnjBoR8N65r3ZAJmCpJ/.

[115] See, e.g., Taylor Soper, "City of Seattle to Contact Uber About 'Illegal' Marketing Tactics," GeekWire, (Feb. 28, 2014), https://www.geekwire.com/2014/city-seattle-contact-uber-illegal-marketing-tactics/. The only strategy that we did not see covered in news reports is the door hangers in Miami-Dade, which we learned about from Commissioner Daniella Levine Cava (Aug. 14, 2017).

[116] Daniel Beekman, "No Union Needed, Says Uber Adviser Plouffe," *Seattle Times*, (Dec. 4, 2015), and Jordan Golson, "Uber is Using In-app Podcasts to Dissuade Seattle Drivers from Unionizing," The Verge, (Mar. 14, 2017), https://www.theverge.com/2017/3/14/14912524/uber-driver-app-podcast-seattle-union.

[117] Jacob Palmer, "Uber Says Bill Threatens its Operations in Oregon," *Oregon Business*, (May 12, 2015), http://www.oregonbusiness.com/article/item/12275-uber-says-bill-threatens-its-operations-in-oregon.

[118] We are aware of only recent example: Under Alaska's new state TNC law, city legislators can put to voters whether or not to allow TNCs. Ketchikan did that - the proposed ban on ridesharing failed in October 2017. Suzanne Downing, "Local Election Results from Around Alaska," Must Read Alaska, (Oct. 4, 2017), http://mustreadalaska.com/local-election-results/.

[119] Conversation with Galveston Council member Craig Brown (Aug. 21, 2017). Notes on file with authors. See also John Wayne Ferguson, "With Uber Gone, Competitor Steps in to Provide Island Rides," *Galveston Daily News*, (Apr. 11, 2016), http://www.galvnews.com/news/article_fab65b11-ee52-5ddd-a9de-bf05496b1879.html.

[120] See Austin City Council meeting video, (Oct. 15, 2015), http://austintexas.gov/page/watch-atxn-live.

[121] Tom Dart, "Uber Irks City Officials in Attempt to Enter Houston Taxi Market," *The Guardian*, (Mar. 7, 2014), https://www.theguardian.com/world/2014/mar/07/uber-houston-city-officials-taxi-market-lyft.

[122] Conversation with Seattle Council member Mike O'Brien (Aug. 9, 2017).

[123] See, e.g.: Maya Kosoff, "Uber Drivers Speak Out: We're Making a Lot Less Money than Uber is Telling People," Business Insider, (Oct. 29, 2014), http://www.businessinsider.com/uber-drivers-say-theyre-making-less-than-minimum-wage-2014-10; Seth Sandronsky, "I'm Making Only $2.64 an Hour Working as an Uber Driver, Capital and Main, (Sep. 23, 2015), https://www.alternet.org/labor/im-making-only-264-hour-working-uber-driver; and Caroline O'Donovan, "How Much Uber Drivers Actually Make per Hour," Buzzfeed News, (Jun 2016), https://www.buzzfeed.com/carolineodonovan/internal-uber-driver-pay-numbers.

[124] Andrew J. Hawkins, "Uber Finally Caves and Adds a Tipping Option to its App," The Verge, (Jun. 20, 2017), https://www.theverge.com/2017/6/20/15840818/uber-tipping-option-app-seattle-minneapolis-houston.

[125] Andrew J. Hawkins, "You Can Now Tip Your Uber Driver in the App," The Verge, (Jul. 6, 2017), https://www.theverge.com/2017/7/6/15928442/uber-tip-driver-app-list-cities.

[126] For example, an employer pays workers' compensation taxes; an independent contractor must pay their own insurance or pay the costs from any workplace injuries. Also, an employer usually pays any required work expenses such as uniforms or materials; an independent contractors must pay for all operating costs like gas, tools, etc. For more, see Sarah Leberstein and Catherine Ruckelshaus, "Independent Contractor vs. Employee: Why Independent Contractor Misclassifications Matters and What We Can Do to Stop it," National Employment Law Project, (May 2016), http://www.nelp.org/publication/independent-contractor-vs-employee/.

[127] Bureau of Labor Statistics, Fatal occupational injuries, total hours worked, and rates of fatal occupational injuries by selected worker characteristics, occupations and industries, (2014), http://www.bls.gov/iif/oshwc/cfoi/cfoi_rates_2014hb.pdf.

[128] "Ensuring Fairness in Background Checks for On-Demand Work," National Employment Law Project, (Jun. 2016), http://www.nelp.org/publication/ensuring-fairness-in-background-checks-for-on-demand-work/.

[129] All states have laws against employment discrimination. These typically outline conduct that constitutes discrimination and allow for compensatory and punitive damages, and so-called equitable remedies of back pay and reinstatement. "State Employment-Related Discrimination Statutes," National Conference of State Legislatures, (Jul. 2015), http://www.ncsl.org/documents/employ/Discrimination-Chart-2015.pdf. By contrast, specialized TNC laws generally require TNCs to have a policy of non-discrimination, but do not give workers any remedy for violations. They often require the drivers, not the TNCs, to comply with existing nondiscrimination laws. Compare, for example, CT SHB 7126 (2017)(requiring TNCs to have a nondiscrimination policy) with Conn. Gen. Stat. §46a-60 et.seq. (requiring employers to comply with detailed nondiscrimination law enforced by a state commission, which has subpoena power; employees may pursue claims for both equitable and legal remedies against employers who violate the law).

[130] See fn. 27, supra, and: Noam Scheiber, "How Uber Uses Psychological Tricks to Push Its Drivers' Buttons," *New York Times*, (Apr. 2, 2017), https://www.nytimes.com/interactive/2017/04/02/technology/uber-drivers-psychological-tricks.html; Eric Newcomer and Olivia Zalesky,"Inside Uber's Auto-Lease Machine, Where Almost Anyone can get a Car," *Bloomberg Technology* (May 31, 2016), https://www.bloomberg.com/news/articles/2016-05-31/inside-uber-s-auto-lease-machine-where-almost-anyone-can-get-a-car; Marc Ramirez, "Texas Uber Drivers Sue Company Seeking Full Employee Status, Back Pay," *Dallas News*, (Jun. 30, 2017), https://www.dallasnews.com/news/transportation/2017/06/30/texas-uber-drivers-sue-company-seek-full-employee-status-back-pay; Alex Rosenblat, "The Truth About How Uber's App Manages Drivers," *Harvard Business Review*, (Apr. 6, 2016), https://hbr.org/2016/04/the-truth-about-how-ubers-app-manages-drivers; and Alex Rosenblat and Luke Stark, "Algorithmic Labor and Information Asymmetries: A Case Study of Uber's Drivers," International Journal of Communication (2016, Vol. 10), http://ijoc.org/index.php/ijoc/article/view/4892/1739%20.

[131] Vaughn, "Ride Services Turn to the Voters."

[132] See: https://newsroom.uber.com/us-washington/save-uberx-in-seattle/; Alexa Vaughn, "City Panel Goes Different Route with Ride-service Regulations," *Seattle Times*, (Feb. 28, 2014); Vaughn, "Ride Services Turn to the Voters;" Claypool and Weissman, "Disrupting Democracy: How Uber Deploys Corporate Power to Overwhelm and Undermine Local Government."

[133] Author's calculation of figures found in WA PDC's search engine, for contributions and staff time to "Seattle Cit. to Repeal Ordinance 124441." Lyft's total was $769,072, Sidecar's total was $541 in staff time, and Uber's total was $763,233.

[134] Alexa Vaughn, "Seattle City Council Repeals Rules for Ride Services," *Seattle Times*, (Jul. 7, 2014), https://www.seattletimes.com/seattle-news/seattle-city-council-repeals-rules-for-ride-services/.

[135] Taylor Soper, "Statewide Laws Regulating Uber, Lyft Set to Pass in Washington," Geekwire, (Apr. 17, 2015), https://www.geekwire.com/2015/statewide-laws-regulating-uber-lyft-set-to-pass-in-washington/. The "split" refers to the House, that was and is controlled by Democrats, while the Senate was controlled by Republicans.

[136] Golson, "Uber is Using In-app Podcasts to Dissuade Seattle Drivers from Unionizing."

[137] Daniel Beekman, "City to Let Uber, Other Drivers to Organize," *Seattle Times*, (Dec. 15, 2015).

[138] Conversations with Dawn Gearhart, Teamsters 117 (Jul.- Oct. 2017). Notes on file with authors. Jessica Lee, "Unionize Uber? Legal Fight Over Seattle drivers Draws National Attention," *Seattle Times*, (Mar. 29, 2017), https://www.seattletimes.

com/seattle-news/transportation/unionize-uber-legal-fight-over-seattle-drivers-draws-national-attention/.

[139] Steven Hsieh, "Federal Appeals Court Puts the Brakes on Seattle's Uber Unionization Law," The Stranger, (Aug. 30, 2017), http://www.thestranger.com/slog/2017/08/30/25383904/federal-appeals-court-puts-the-brakes-on-seattles-uber-unionization-law. Uber's operating subsidiary, Rasier LLC, was a plaintiff in the US District Court for Western Washington, 2:17-cv-00370. The case continues with the US Chamber and Uber in the US Court of Appeals for the 9th Circuit, 17-35640. Lyft has filed an Amicus Curiae brief.

[140] See video of public testimony and debate in the Washington House of Representatives, Committee on Labor and Workplace Standards, (Mar. 14, 2017), www.tvw.org/watch/?clientID=9375922947&eventID=2017031134&eventID=2017031134&autoStartStream=true. See also video of public testimony and debate in the Washington Senate, Committee on Commerce, Labor and Sports (Feb. 2, 2017), ntID=9375922947&eventID=2017021054&eventID=2017021054&autoStartStream=true.

[141] Washington State Public Disclosure Commission L3 reports for 2017 are not due until 2018.

[142] "States Preempting Local Laws Are an Extension of Jim Crow," Partnership for Working Families.

[143] We requested and were told racial/ethnic data was not available at the aggregate of type of license, e.g., TNC, taxi, etc., in Austin, Portland, and Miami-Dade. In King County (which includes Seattle), the licensing division does not yet have the data infrastructure for the TNC drivers - it is on paper, with other private information like names, birthdays, etc. For the 3,133 taxi and for-hire drivers (some of whom may also drive for TNCs), just 7 percent identify as White, and less than 1 percent were born in the US.

[144] "New Survey: Drivers Choose Uber for its Flexibility and Convenience," Uber Newsroom, (Dec. 7, 2015), https://newsroom.uber.com/driver-partner-survey/.

[145] See Tim Alborg, Lyft, testimony to the Miami-Dade Board of Commissioners, (May 3, 2016). See also this press release from the City of Seattle, "Council Unanimously Adopts First-of-its-Kind Legislation to Give Drivers a Voice on the Job," (Dec. 14, 2015), https://www.seattle.gov/council/issues/giving-drivers-a-voice.

[146] Brooke Steger, Uber, email to Council Member Sally Clark (Dec. 17, 2013). See also Mike O'Brien and Rich Stolz, "Looking out for Immigrant Drivers in New Taxi, Uber, Lyft Laws," *Seattle Times*, (Feb. 12, 2014), http://www.seattletimes.com/opinion/guest-looking-out-for-immigrant-drivers-in-new-taxi-uber-lyft-laws/

[147] For Miami-Dade, drivers who showed up to public comment at Board meetings very much reflected a large number of immigrants. Numerous Haitian-American taxi drivers needed a French interpreter (May 3, 2016). Also conversations with Raymond Francois, New Vision Taxi Drivers Association (Sep. 22, 2017), and Meena Jagannath, Florida Justice Project (Sep. 26, 2017). For Philadelphia, see Ron Blount, Taxi Workers Alliance, testimony to the Philadelphia City Council, Committee on Commerce & Economic Development, (minutes from Jun. 10, 2016). Council member Helen Gym thanked all of the drivers, taxi, UberBLACK, and UberX who come from immigrant and diverse communities who are not heard from enough. For Austin, conversation with Merga Gemeda, Austin taxi cooperative (Aug. 9, 2017). All notes from conversations on file with authors.

[148] Authors' review of enacted state laws.

[149] "The On-Demand Economy and Anti-Discrimination Protections," National Employment Law Project, (Jun. 14, 2017), http://www.nelp.org/publication/on-demand-economy-anti-discrimination-protections/. "Fired from Uber: Why Drivers Get Deactivated, and How to Get Reactivated," RideSharingDriver.com, (Apr. 21, 2016), https://www.ridesharingdriver.com/fired-uber-drivers-get-deactivated-and-reactivated/. Avery Hartmans, "10 Ways Uber Drivers Can Get Kicked off the App," Business Insider, (Jul. 23, 2017), http://www.businessinsider.com/how-uber-drivers-get-deactivated-2017-7/#1-promoting-a-competitor-1.

[150] Laura J. Nelson, "Uber and Lyft have Devastated L.A.'s Taxi Industry, City Records Show," *Los Angeles Times*, (Apr. 13, 2016), http://www.latimes.com/local/lanow/la-me-ln-uber-lyft-taxis-la-20160413-story.html. While some news reports highlight the drop in taxi medallion values, a very real financial problem for owners and owners/drivers, because of the evidence of a medallion bubble in some cities, we have chosen not to highlight this as a metric. See Douglas Hanks, "Taxis Suing Miami-Dade for $1 billion Over New Uber Law," Miami Herald, (May 4, 2016), http://www.miamiherald.com/news/local/community/miami-dade/article75555187.html, and David Maialetti, "With Uber and Lyft in Philly, Taxi Loans are Underwater, Like Mortgages in 2008," *Philadelphia Inquirer*, (Sep. 22, 2017), http://www.philly.com/philly/business/labor_and_unions/taxi-uber-philly-medallions-loans-melrose-20170922.html.

[151] San Francisco County Transportation Authority, "TNCs Today: A Profile of San Francisco Transportation Network Company Activity."

[152] Jason Laughlin, "Ride Sharing a Hit in Philly, but City's Disabled are Still Left Behind," Philadelphia Inquirer, (Jun. 22, 2016), http://www.philly.com/philly/business/transportation/20160622_Ride_sharing_a_hit_in_Philly__but_city_s_disabled_still_feel_left_behind.html. WAV medallions that sold for around $80,000 in 2016, had dropped to around $11,000 in 2017. See the winning bids, accessed November 12, 2017: http://www.philapark.org/wp-content/uploads/MEDALLION-SALE-WINNING-BID-POSTINGS-7.19.17-1.pdf. Also conversations with Philadelphia Council member Bobby Henon's staff (Aug. 18, 2017), and Lance Haver, Director of Civic Engagement for the Philadelphia City Council (Aug. 24, 2017). Notes on file with authors.

[153] Jen Wieczner, "Why the Disabled are Suing Uber and Lyft," Time, (May 22, 2015), http://time.com/3895021/why-the-disabled-are-suing-uber-and-lyft/, and Winnie Hu, "Uber Discriminates Against Riders with Disabilities, Suit Says," *New York Times*, (Jul. 18, 2017), https://www.nytimes.com/2017/07/18/nyregion/uber-disabilities-lawsuit-new-york-city.html.

[154] See, e.g., Arizona SB 800 (2015), IL SB 2774 (2015), Maine HP 934/LD 1379 (2015), Ohio HB 237 (2015), and Texas HB 100 (2017) - list not exhaustive. Texas included an accessibility pilot program in its bill. In Florida, Senator Gary Farmer introduced an amendment that would have assessed 0.5 percent of TNC gross revenue to help counties fund accessible vehicles, as Broward County was doing. It did not pass.

[155] See Kathryn Bruning, City of Houston, testimony to the Texas House of Representatives, Committee on Transportation, (Mar. 16, 2017).

[156] Regina R. Clewlow and Gouri Shankar Mishra, "Disruptive Transportation: The Adoption, Utilization, and Impacts of Ride-Hailing in the United States," University of California at Davis, Institute of Transportation Studies, Research Report UCD-ITS-

RR-17-07, (Oct. 2017), https://itspubs.ucdavis.edu/wp-content/themes/ucdavis/pubs/download_pdf.php?id=2752.

[157] Bruce Schaller, "Unsustainable? The Growth of App-based Ride Services and Traffic, Travel and the Future of New York City," Schaller Consulting, (Feb. 2017), http://www.schallerconsult.com/rideservices/unsustainable.pdf.

[158] Rayle, Dai, et al, "Just a Better Taxi? A Survey-based Comparison of Taxis, Transit, and Ridesourcing Services in San Francisco."

[159] "New Yorkers Likely Abandoning Public Transit for Uber," *Crain's New York Business*, (Mar. 10, 2017), http://www.crainsnewyork.com/article/20170310/TRANSPORTATION/170319992/new-yorkers-likely-abandoning-public-transit-for-uber-lyft-gett-via.

[160] A recent survey of seven major metropolitan areas finds that ride-hailing users tend to be younger, more educated, and have higher incomes than non-users. Clewlow and Mishra, "Disruptive Transportation: The Adoption, Utilization, and Impacts of Ride-Hailing in the United States."

[161] Michael Barnard, "Uber Not So Climate Friendly?" CleanTechnica.com, (Jan. 14, 2016), https://cleantechnica.com/2016/01/14/uber-not-climate-friendly/.

[162] Press Release, "San Francisco Taxis Surpass Emissions Goal, Office of the *San Francisco Mayor*, (Feb. 8, 2012), http://sfmayor.org/san-francisco-taxis-surpass-emissions-goal.

[163] Robyn Purchia, "Uber, Lyft Focus on Green Bills, not Green Cars," *San Francisco Examiner*, (Dec. 23, 2015), http://www.sfexaminer.com/uber-lyft-focus-on-green-bills-not-green-cars/.

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