

K. UNREGULATED WORK IN THE TAXI INDUSTRY IN NEW YORK CITY

Taxis are a cornerstone of transportation in New York City, moving more than 240 million people a year and accounting for up to 25% of all travel in the city. The industry and its drivers are tightly regulated by the Taxi and Limousine Commission, which dictates all aspects of taxi operation, sets fares, issues licenses, imposes fines, and so forth. But at the same time, there are significant unregulated aspects to the industry. The majority of drivers are classified as independent contractors, are not protected by core employment and labor laws, and often work under arduous and unsafe conditions.

HOW THE INDUSTRY WORKS

The taxi industry is currently made up of four different segments:

- **Yellow Cabs** dominate midtown and downtown Manhattan, with about 13,000 cabs on the street and about 25,000 active drivers. Drivers either lease their cabs from a corporate garage or broker, rent from another driver for a second shift, or become an owner-driver. Yellow cabs are metered and allowed to pick up passengers on the street.
- **Livery Cabs** dominate uptown Manhattan and the outer boroughs. There are at least 30,000 livery cab drivers; the majority own their vehicles, but affiliate with car services that dispatch cabs in response to customer calls for a weekly fee. Drivers often lease their cars to other drivers for a second shift. Livery cabs are not allowed to pick up passengers on the street, but in practice they often do.
- **Dollar Vans** serve customers who do not live close to subway stops, largely in the outer boroughs. While the TLC website lists about 85 licensed commuter van vehicles, there are likely more operating without licenses. Most dollar van drivers are owners of their vehicles, and so pay all costs associated with operation.
- **Black cars** provide business-class service to Wall Street firms and other corporations. There are 11,000 to 12,000 black car drivers working for 42 major bases

in the city. Trips are largely business travel and often paid for through vouchers from companies.

THE WORKERS & MOBILITY

The taxi industry is increasingly made up of immigrant workers, and the large majority of drivers are men. Entry into the industry requires a TLC license, and yellow cab drivers are also required to take an 80-hour class and pass an exam covering geography, customer service and English language skills. Drivers sometimes find jobs through newspaper or radio ads, but mostly through word of mouth and social networks. They come to the industry from a wide range of other jobs, including janitors, car mechanics, construction workers, and professionals unable to practice in the U.S. In spite of long shifts and hard working conditions, drivers value their autonomy, and while they may cycle in and out of the industry, long tenures are common. However, upward mobility within the industry is difficult; the only step up is to become an owner-driver, but the costs of making this transition are increasingly prohibitive.

INDEPENDENT CONTRACTOR STATUS

The work lives of taxi drivers are profoundly shaped by the fact that the majority are classified as independent contractors and are therefore excluded from most employment and labor laws. (This has not prevented organizing, however; about 7,000 of the 25,000 active yellow cab drivers belong to the New York Taxi Workers Alliance; see Section VI).

Drivers carry most of the costs of their job. For example, they pay for gas; daily or weekly leases; vehicle maintenance and repair; car registration and inspection; fines and fees; affiliation with dispatcher bases; and for owner-drivers, the cost of the car. But at the same time, drivers are heavily regulated by the Taxi & Limousine Commission, which shapes almost all aspects of commerce in the industry. For example, it sets fares and lease rates; con-

trols the supply of yellow cabs; regulates which cabs can operate where; issues drivers' licenses; and requires car replacement every five years.

The upshot is that despite being classified as independent contractors, many drivers are effectively in an employment relationship – how they do their job and what they earn is severely constrained by industry regulation and by the terms of contract with garages, brokers and bases. A good illustration is that during the steep escalation of gas prices last year, yellow cab drivers were not able to adjust fares on their own, but had to petition the TLC for a fuel surcharge (which was denied). In what follows, we therefore evaluate the drivers' working conditions through the lens of core employment and labor laws (see Section III for a fuller treatment of how we define unregulated work).

WORKING CONDITIONS & VIOLATIONS

In our assessment, many yellow cab, livery cab, and dollar van drivers experience what are effectively unregulated working violations. As shown in Table K, hourly wages for drivers can fall below the minimum wage because of the very high number of hours worked per week, coupled with low net earnings. This may happen on a regular basis or just a few weeks a year, depending on gas prices, the fare rate that drivers are allowed to charge, and fluctuations in economic conditions. One driver we interviewed in 2004 rented a livery cab from another driver for a second shift; on a bad week, he brought home \$200, which translates into significantly less than the minimum wage for six days of full-time work. A van driver told us,

"It's a struggling business but what else are you going to do? People would rather struggle and drive vans than not work."

Further, drivers do not receive overtime pay because of their independent contractor status. This lack of coverage has a significant impact, given the 70 and 80 hour weeks that drivers need to work to make any money after initial costs – weekly earnings would be as much as 25% higher if time-and-a-half were paid. More generally, drivers face verbal harassment, damage to their cabs, and non-payment of fares. They are not infrequently victims of robbery, physical threats and physical harm from passengers: "I have had more than four guns to my head," one driver told us. Health and safety problems also result from long hours driving and traffic accidents. And drivers are more likely than other workers to be killed on the job. This is well-known in the industry: "I know it's risky, but I do it because I have no choice," another worker reported.

While some taxi drivers are covered through workers' compensation for injury on the job, health and safety regulations for the industry are weak, meaning that cabs are being driven without, for example, recommended protective equipment to forestall robberies. Exacerbating the generally unsafe environment is the fact that the large majority of drivers have no health insurance.

Finally, drivers report harassment and fines for minor infractions by TLC agents and police. These may result in drivers losing licenses so they cannot drive for as much as a month (meaning a substantial loss of income), as well as significant fines.

TABLE K.
CHARACTERISTICS OF UNREGULATED WORK IN THE TAXI INDUSTRY
IN NEW YORK CITY

Note: Most taxi drivers are exempt from one or more employment or labor laws. In this table, we evaluate working conditions as if workers were covered by all employment and labor laws; see our definition of unregulated work in Section III.

INDUSTRY SEGMENTS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Industry segments	Violations are common in yellow cab and livery cab segments (and likely in the dollar van segment, though there is less information here).
Ownership and size	Yellow cab garages range between 50-400 taxis. Livery cab bases average 100-200 cars, with some as large as 700 or 800 cars. Dollar vans are usually run out of small shops.
Union density	The yellow cab segment had high union density before 1979, at which point its drivers were reclassified as independent contractors, effectively eliminating formal union representation.
THE JOBS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Occupations	Yellow cab drivers (mainly operate in Manhattan). Livery cab drivers (mainly operate in the outer boroughs and uptown Manhattan). Dollar van drivers (mainly operate in the outer boroughs).
Typical wages	For most drivers, net earnings are determined by (a) the revenues they take in from fares, minus (b) expenses they pay out of pocket (such as gas, leasing or base charges, car insurance, fees & fines). Yellow cab drivers: In 2004, drivers' costs averaged \$800 or more per week. After subtracting costs, take-home pay ranged from \$400-\$500 per week. But this varied considerably by shift; at the beginning of the week, drivers could take home as little as \$22 per day. Livery cab drivers: In 2004, costs for owner-drivers included \$7,000 insurance annually, plus about \$250 per week in base charges, gas, and other fees. After subtracting costs, annual income averaged around \$20,000, though tickets, fines, and the costs of buying a car reduce that amount further. Drivers who rented cabs from owners paid as much as \$1000 per week, and netted as little as \$200. Dollar van drivers: In 2004, fare revenues could be as much as \$1,000 per week, but expenses are high; net earnings seem comparable to livery cab drivers.
Typical hours	Full-time yellow cab and livery cab drivers usually work 6 days a week, for 12-16 hour per day (12 hour shifts are the minimum for most drivers).
Payment method	When the drivers are independent contractors, income is cash-based (i.e. fares). When drivers are considered "employees" they are largely paid on the books.
Benefits	The large majority of drivers do not have health benefits, paid vacation days or sick days. Drivers can apply for HealthStat Insurance through the Taxi & Limousine Commission.
THE WORKERS MOST AFFECTED BY WORKPLACE VIOLATIONS	
Demographics	Largely immigrant workforce, from Bangladesh, Pakistan, India, Dominican Republic, Haiti, and several other countries. Only 2 –3% of drivers are female; these are concentrated in livery cab segment.
Immigration status	Mix of documented and undocumented.
INTERMEDIARIES PLACING WORKERS IN UNREGULATED JOBS	
Training and driving schools are the main intermediaries.	
INDUSTRY-SPECIFIC LAWS AND REGULATIONS	
Almost all yellow cab, livery cab, and dollar van drivers are legally classified as independent contractors, meaning they are not covered by most employment and labor laws. However, conditions of work are significantly shaped by strong industry regulation, via the city's Taxi & Limousine Commission (see narrative above). In our substantive (not legal) analysis, these drivers are effectively in an employment relationship, and we evaluate their working conditions accordingly.	

COMMON WORKPLACE VIOLATIONS

Minimum wage & overtime	<p>Minimum wage: Drivers typically work 60 to 72 hours (and more) a week. Calculated on this basis, hourly wages for drivers can sometimes fall below the minimum wage, especially for drivers renting cars from owner-drivers.</p> <p>Overtime: Lack of overtime pay is pervasive because most drivers are not covered by overtime laws.</p>
Illegal deductions	Drivers have considerable out-of-pocket expenses (many of which would need to be reimbursed if the drivers were covered by state employment laws).
Meal breaks	Drivers take some meal breaks from driving, but usually less frequently than would be required for workers covered by state law.
OSHA	Independent contractors are not covered by OSHA.
Workers' Compensation	Yellow cab and livery cab drivers have been deemed employees for the purpose of workers' compensation. However, workers report that when they file claims they routinely need to prove their eligibility (as employees) before the claim is assessed.
Discrimination	Female drivers report harassment and discrimination by dispatchers and garages.
Retaliation & the right to organize	Drivers classified as independent contractors do not have the legal right to organize.
Industry-specific violations	Yellow cab garages charge drivers a 3% sales tax on leases, which they are required to pay to New York State but often keep. Garages sometimes charge drivers for a weekly lease that is higher than the cap set by the Taxi & Limousine Commission. Garages are known to demand that the lease be paid in cash and refuse to give receipts, so drivers are left without proof to challenge these practices.

Note: All violations were assessed using legal standards in effect when interviews were conducted, and in particular, wage rates are from 2004 and 2005.

Sources: Original data gathered by authors during fieldwork from 2003 through 2006 in New York City, as well as the following secondary sources: Bowles and Chao (2004), Brennan Center For Justice (2003), Camerer et al. (1997), Farber (2003), Holt and Paradise (2002), Luo (2004a), Luo (2004b), Mathew (2005), McGrath (2004), New York City Taxi and Limousine Commission (2007), New York State Department of Labor (2007b), New York State Department of Labor (2007c), New York Taxi Workers Alliance (2003), Schaller Consulting (2004a), Schaller Consulting (2004b), Waheed and Romero-Alston (2003).