

Delivering Precarity

How Amazon Flex's Labor Model Harms Workers and What to Do About It

by Maya Pinto

Introduction and Overview

Amazon, the largest online retailer in the United States for more than a decade, is poised to overtake Walmart to become the country's top retailer, full stop.¹ To meet the “fast, free shipping” promise at the heart of its strategy to achieve retail dominance, the corporation has built an army of contingent and subcontracted last-mile delivery workers.² The most underpaid and precarious among them, making the speediest deliveries, are managed by Amazon's Uber-like delivery platform called “Amazon Flex.”³

This brief identifies key facets of the Amazon Flex labor model and discusses their negative impacts on job quality. It draws on Amazon's own corporate filings, statements, and contracts, as well as government documents, press reports, research by academics, industry groups, and advocacy organizations, and conversations with Flex drivers organizing in New Jersey. It concludes by recommending organizing, policy, and legal interventions for improving the conditions of Flex drivers and a growing population of workers facing similar challenges on the job.

Key Points

- Amazon uses a system of interconnected labor practices—**digital surveillance, algorithmic management, independent contractor misclassification, mandatory arbitration, and class action waivers**—to maximize the labor value it can extract from Flex delivery drivers and to minimize the responsibility it bears for their job quality.⁴
- That labor model subjects Flex drivers to intolerable and often illegal working conditions, including **systematic wage theft, unlivable pay, inadequate benefits, unsafe work speeds, racial discrimination, job insecurity, unpredictable schedules, and a lack of recourse for workplace mistreatment**.⁵
- Through Flex and its public policy work, Amazon is **eroding labor standards in the broader last-mile delivery sector and beyond**.⁶

Key Recommendations

- **Amazon labor model changes:** Amazon should properly classify Flex drivers as employees under labor and employment laws, eliminate independent contractor agreements, arbitration clauses, and class action waivers in its Flex driver contracts, and end its use of opaque algorithmic management practices. But Amazon is unlikely to do any of that without worker and government action.
- **Organizing support:** Labor institutions, worker advocacy groups, and funders should support Flex driver organizing—because organized workers can raise job standards by making direct demands of Amazon and by advancing public policy change.
- **Public policy change:** To compel change to the Flex labor model, policymakers should establish worker data rights (including the right to access and correct data used in work management), regulate workplace digital surveillance and algorithmic management, ensure Flex drivers and other app-based workers have full access to gold-standard worker protections, and ban mandatory arbitration and class action waivers.
- **Public enforcement and investigation:** State Attorneys General and City Attorneys should take legal action against Amazon Flex for independent contractor misclassification. State workforce agencies should conduct unemployment insurance and workers' compensation audits of Amazon's Flex operations to quantify losses to state coffers resulting from Amazon's misclassification of Flex drivers as independent contractors. The Federal Trade Commission should investigate Amazon's independent contractor misclassification and use of mandatory arbitration in its Flex operation as anticompetitive issues. And members of Congress, following their probe of the Amazon Delivery Service Provider program, should launch an inquiry into the shadowy Amazon Flex operation.



Amazon Flex's Origins and Evolution

Founded as an online bookseller in 1994, Amazon initially relied on the U.S. Postal Service for package delivery.⁷ As the breadth of its inventory and customer base expanded, the corporation added the United Parcel Service (UPS) and FedEx as delivery contractors.⁸ But seeking to maximize delivery speeds and minimize shipping costs for a rapidly growing volume of deliveries, Amazon decided to vertically integrate into last-mile delivery.⁹

To build out its last-mile infrastructure, Amazon hired scores of former executives from global delivery giant FedEx,¹⁰ which had brought the independent contractor labor model to a highly unionized, employment-based U.S. last-mile delivery sector in the 1980s and saw the corporation face litigation for independent contractor misclassification and attendant labor violations.¹¹

Amazon was using unionized employee UPS drivers for two-thirds of its deliveries when it unveiled “Amazon Flex,” the first of its two last-mile delivery programs, in 2015.¹² Flex debuted on the heels of Amazon’s “Prime” delivery subscription service introducing same-day shipping for items ordered through Amazon.com.¹³

Amazon designed Flex as an on-demand labor platform that would label its delivery drivers independent contractors, providing Amazon with a relatively scalable, low-cost, and ostensibly union-proof workforce (independent contractors do not have organizing and bargaining rights under the National Labor Relations Act (NLRA))¹⁴ to fulfill orders requiring the quickest turnaround.

Through Flex, people 21 years or older with a driver’s license, smartphone, four-door sedan or larger vehicle, and car insurance sign up to deliver Amazon packages in shifts known as “delivery blocks.”¹⁵

First launched in Amazon’s hometown of Seattle in September 2015, Flex was in Atlanta, Austin, Baltimore, Miami, Dallas, Chicago, Indianapolis, New York City, and Portland by the end of 2015.¹⁶ By 2018, the Flex platform was operational in 50 U.S. cities.¹⁷ As of April 2025, it is actively recruiting drivers in more than 260 metropolitan areas, in every U.S. state, and in the District of Columbia and Puerto Rico.¹⁸ Amazon also has Flex operations in Australia, Canada, India, Japan, Singapore, and the United Kingdom.¹⁹

Since its launch almost a decade ago, the Flex app has been downloaded more than 2.9 million times in the U.S. In 2024 alone, the app was downloaded more than 600,000 times, so there are likely hundreds of thousands of active Flex drivers across the U.S.²⁰

Amazon does not report on the demographics of its Flex workforce, but research shows that the overall app-based delivery workforce is disproportionately people of color—Black, Latinx, and Asian workers are four to six times more likely than white workers to say that they have ever earned money “using a personal vehicle to deliver packages via an app or website”—and reporting by the press suggests that the workforce is also largely immigrant.²¹

Amazon's Last-Mile Delivery Operation

While the focus of this brief is Amazon's Flex program, Table 1 below compares Flex to another Amazon-crafted last-mile delivery service—the Delivery Service Provider (DSP). Amazon has deployed these last-mile programs in ways that affect the other. Amazon recently used Flex drivers in its union-busting efforts at DSPs (see the Broader Impacts section below for more), and Amazon has experimented with a same-day delivery service that replaced some Flex drivers with DSP drivers for a time.²² Both of Amazon's last-mile delivery programs are designed to eliminate the corporation's employer responsibilities to workers, but they do so in different ways.

Table 1. Amazon-Created Last-Mile Delivery Programs

	Flex Program	Delivery Service Partner Program
Launch year	2015 ²³	2018 ²⁴
Delivery vehicles	Flex drivers' personal vehicles ²⁵	DSP-owned Amazon-branded vans, SUVs, ²⁶ and e-bikes ²⁷
Items delivered	Packages and groceries ²⁸	Packages ²⁹
How Amazon disclaims employer responsibility	Amazon denies that it employs Flex drivers by labeling them self-employed "independent contractors" rather than "employees" for the purposes of all labor and employment laws ³⁰	Amazon denies that it shares any kind of employment relationship with DSP drivers, labeling them sole employees of a third-party owner-operator—a DSP ³¹ —for the purposes of all labor and employment laws
How Amazon thwarts unionization	Per the above, Amazon deems Flex drivers "independent contractors" exempt from the National Labor Relations Act (NLRA), which grants workers unionizing and collective bargaining rights ³²	Per the above, Amazon attempts to shield itself from employer obligations under the NLRA—to honor employees' unionizing and collective bargaining rights; Amazon limits the size of DSPs so that it can easily end contracts with DSPs that unionize ³³
How Amazon manages work	Largely via Flex smartphone app, and in-person via Amazon managers at delivery item pickup locations ³⁴	Largely via smartphone apps and in-vehicle cameras, and in-person via managers at delivery item pickup locations ³⁵
Key legal issue	Independent contractor misclassification ³⁶	Joint employment ³⁷

In 2023, Amazon launched the Hub Delivery program, which turns small businesses into delivery partners. Hub partners use both their own and Amazon-owned vehicles to complete deliveries—typically 20-50 packages per day.³⁸

Initially a package delivery service, Amazon's Flex branched into grocery delivery in 2019.³⁹ Flex-powered delivery of groceries from Amazon-owned Whole Foods stores and Amazon Fresh facilities has made Amazon the second largest online grocery retailer in the U.S. behind Walmart.⁴⁰ In recent years, Amazon has started offering Flex-powered delivery services to other grocers in California, Maryland, New Jersey, Pennsylvania, and Washington.⁴¹ Short-lived programs saw Flex make forays into the restaurant and retail delivery spaces, delivering from restaurants and the brick-and-mortar stores of Amazon Marketplace sellers, but Amazon has discontinued those services.⁴²

While last-mile delivery programs created by Amazon handled just 10 percent of the corporation's deliveries in 2016, they were handling two-thirds by 2020.⁴³ Amazon is now the largest private sector package delivery service in the U.S, having leapfrogged its well-known competitors FedEx and UPS in 2019 and 2023, respectively—the same years those companies' Amazon delivery contracts ended.⁴⁴ And while Amazon continues to use the U.S. Postal Service, especially for delivery to rural areas, it recently

announced a multi-billion dollar expansion of its rural delivery capacity, which will include Flex drivers.⁴⁵ According to Amazon, “Flex is at the forefront of delivery operations, owning a significant piece of Amazon’s “Last Mile” delivery strategy at current & into the future.”⁴⁶

Amazon, which now sets last-mile delivery standards that other retailers and delivery companies follow, is pushing for “faster than ever” delivery speeds, aided by Flex.⁴⁷ Job growth in the last-mile delivery sector is projected to outpace that of the overall U.S. workforce in the next decade.⁴⁸ And more and more corporations, operating in a range of industries from last-mile delivery to nursing, are using labor models like Amazon Flex’s, which erode worker power and transfer economic risk and business costs onto workers.⁴⁹



Key Facets of the Amazon Flex Labor Model

Amazon's Flex labor model features digital surveillance, algorithmic management, independent contractor misclassification, and mandatory arbitration agreements with class action waivers. As this section describes, the model is designed to give Amazon a high degree of (often hidden) control over work and flexibility to treat as it pleases workers who are cut off from access to workplace rights and to courts.

Digital Surveillance and Algorithmic Management

Amazon relies almost exclusively on digital surveillance (including tracking and collecting data on worker location and productivity) and algorithmic management (involving remote management of Flex driver work via automated and semi-automated decision-making systems) to oversee and direct its Flex workforce.⁵⁰

In 2020, a *Motherboard* investigation revealed that Amazon was secretly spying on Flex drivers' online activity outside of work hours, using digital surveillance to monitor Flex driver social media activity and collect information regarding potential protests and strikes, unionization efforts, and Flex driver communication with researchers studying Amazon's treatment of workers. The investigation found that "Amazon corporate employees are getting regular reports about the social media posts of its Flex drivers on nominally private pages" and that those reports were being used "to diagnose problems as well as monitor, for example, drivers 'planning for any strike or protest against Amazon.'"⁵¹ Still pending is a related class action lawsuit, filed in December 2020, alleging Amazon illegally monitored Flex driver activity in private Facebook groups. Amazon's attempts to force the lawsuit into arbitration have thus far failed.⁵²

A non-profit data rights organization in the United Kingdom, Worker Info Exchange, acted on behalf of Flex drivers to make Data Subject Access Requests to Amazon, under the European Union's General Data Protection Regulation.⁵³ A guidance document on the data that Worker Info Exchange was able to obtain from Amazon provides a clear account of Amazon's digital surveillance and algorithmic management of Flex drivers.⁵⁴ The document reveals that Amazon collects detailed information such as "Date and time when the Delivery Partner was detected as logging into the Amazon Flex app"; "Time (in seconds) the vehicle was parked for each address in the delivery block"; "Number of non-delivery station stops during a delivery block"; and calculates an "Adherence factor which measures how closely the optional Delivery Route was followed."⁵⁵ The Flex apps in the U.S. and the U.K. operate similarly.⁵⁶

Business management experts have noted that algorithmic work management, compared to other forms of workplace control, is especially "comprehensive, instantaneous, interactive, and opaque."⁵⁷ Indeed, the algorithmic management systems that Amazon uses in its Flex operation collect and process a particularly broad array of data about workers, exert control continuously and in ever-evolving ways, and involve multiple inputs and algorithms that influence one another; their design and logic is hidden and unintelligible to Flex drivers.⁵⁸ Table 2 below details the different ways in which Amazon uses algorithmic management systems in its Flex operation.

Table 2. Amazon’s Algorithmic Management and Control of Flex Drivers

Area of work management	How Amazon uses algorithms to manage work
Hiring	After aspiring Flex drivers download the Flex app and complete their applications, algorithms—including those used by the third-party vendor to which Amazon outsources the background checking process—help to determine whose accounts get activated. ⁵⁹
Batching and routing	An algorithm known as “CONDOR” (short for Customer Order and Network Density OptimizeR) batches and routes deliveries, determining Flex driver workload—the number of packages to be delivered and the timeframe in which to do it, as well as delivery routes and stop locations. ⁶⁰
Work assignment	The CONDOR and standing algorithms interact with a combination of inputs, including a Flex driver’s location, to dole out work block offers. ⁶¹
Pay	Automated systems determine worker pay rates. These rates can be influenced by labor supply and customer demand factors, as well as a worker’s “Standing.” ⁶²
Performance evaluation and discipline	Amazon uses five metrics related to “reliability and delivery quality” inputted into an algorithm to determine worker “Standing,” ⁶³ which affects worker pay, access to work blocks, and termination decisions. ⁶⁴
Termination	Amazon uses algorithmically determined standing and other inputs derived from digital surveillance and data collection to make Flex driver deactivation decisions. ⁶⁵

Independent Contractor Misclassification

Amazon’s use of algorithmic management in its Flex operation obscures various forms of employer control it exerts over Flex drivers, facilitating their misclassification as “independent contractors” rather than employees.

Independent contractor misclassification occurs when employers impose the “independent contractor” label on workers whose labor they engage, who are not running their own businesses, and who should be classified as “employees” according to prevailing employment standards.⁶⁶ The practice is widespread.⁶⁷

In a recent amicus brief filed in support of a Virginia Employment Commission determination that Flex drivers are employees entitled to state unemployment benefits as covered employees, contrary to Amazon’s erroneous labeling of them as independent contractors, attorneys at the National Employment Law Project explained how Amazon misclassifies its Flex drivers:

“[T]hrough the unilaterally-imposed contract Amazon requires all Flex drivers to sign, Amazon maintains the right to control most aspects of the working relationship and the drivers’ performance of their work. Amazon uses algorithmic management and technological surveillance to effectuate the pervasive and systemized control reserved to it in its contracts. Amazon’s pervasive retained and exercised control over drivers’ working conditions means drivers are not truly in business for themselves like legitimate independent contractors are.”⁶⁸

By labeling its Flex drivers as independent contractors instead of employees, Amazon hinders their access to a host of rights and protections conferred to employees but not to independent contractors, including the right to organize and bargain collectively, the right to minimum wage and overtime pay, the right to a safe and healthy workplace, the right to paid sick leave, the right to paid family and medical leave, access to employer-funded workers’ compensation, the right to employer-funded health insurance, employer contributions to Social Security and retirement funds, discrimination and sexual harassment protections, and reimbursement of certain work-related expenses.

Amazon faces several lawsuits alleging independent contractor misclassification of Flex drivers alongside violations of various state and federal employment laws.⁶⁹ Courts in both Virginia and Wisconsin have ruled that Amazon Flex drivers are employees entitled to unemployment insurance.⁷⁰

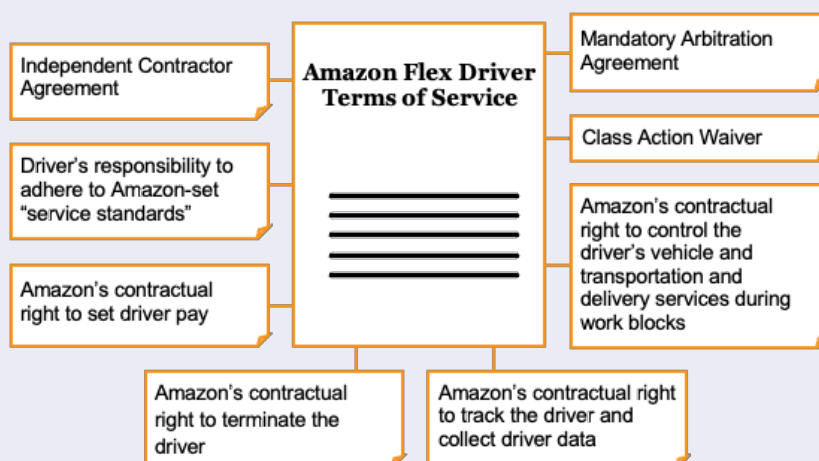
Beyond Flex, Amazon has been sued for independent contractor misclassification by workers on its long-haul trucking platform Relay, and on an Amazon Studios reality show.⁷¹ And Amazon's Mechanical Turk, a micro-tasking platform, could be enabling widescale misclassification and wage and hour law violations.⁷²

Amazon is a member of corporate lobby groups including the Coalition for Workforce Innovation, TechNet, and the National Retail Federation that support federal policy change aimed at facilitating corporate use of nonemployee labor across industries and occupations.⁷³

Amazon's Flex Labor Model is Laid Out in Drivers' Terms of Service

In the Terms of Service agreements Amazon requires its Flex drivers to sign, as shown in Figure 1 below, the corporation reserves various rights to surveil and collect data from its delivery workforce, and to exert control over drivers, including by setting pay and making decisions about termination.⁷⁴ Such monitoring and control belie the "independent contractor" label that Amazon foists on Flex drivers in the contract's title—the contract cited here is titled "Amazon Flex Independent Contractor Terms of Service"—and in an "independent contractor agreement" that states that the Flex driver "will not be considered as having the status of an employee of Amazon for any purpose."⁷⁵

Figure 1. Anatomy of an Amazon Flex Terms of Service Agreement



The terms also state that Flex drivers "will resolve by final and binding arbitration, rather than in court or trial by jury, any dispute or claim" and "any dispute resolution proceedings will be conducted only on an individual basis and not on a class or collective basis."⁷⁶

Importantly, contracts drawn up by private actors like Amazon do not supersede laws—contractual rights do not supplant statutory rights.⁷⁷ And foundational employment laws like the Fair Labor Standards Act are designed to establish a federal floor; businesses cannot block access to such protections through contract language that purports to waive them.⁷⁸ Flex drivers have successfully challenged, and continue to challenge, the legality and enforceability of several of the provisions in Amazon Flex Terms of Service, but lasting change remains elusive.⁷⁹

Mandatory Arbitration with Class Action Waivers

As shown in Figure 1 above, Amazon includes mandatory arbitration agreements with class action waivers in its Flex Terms of Service agreements.⁸⁰ Recently found legal by the U.S. Supreme Court for most employers under the 1925 Federal Arbitration Act,⁸¹ mandatory arbitration prevents workers from bringing legal claims in public, impartial courts, relegating them to secret adjudications by private arbitrators, and class action waivers prevent workers from banding together to bring cases against employers for mistreatment.⁸²

Mandatory arbitration and class action waivers block development of a transparent body of pro-worker case law, keeping larger workforces and the public in the dark about patterns of corporate abuse, and they prevent legal settlements that cover an entire workforce and address systemic issues such as independent contractor misclassification and algorithmic management run amok.⁸³ Even when Amazon loses in private arbitrations, as it has, it refuses to change overall corporate structures and continues to pursue evasive and non-compliant arrangements, where enforcement is unlikely.

Academic research shows that arbitration agreements result in workers filing fewer claims and winning smaller awards even when they are successful.⁸⁴ In 2024, nearly 16,000 Flex drivers who had worked in California, Illinois, and Massachusetts filed arbitration claims with the American Arbitration Association alleging independent contractor misclassification and various violations of federal and state employment law. These workers, who represent a fraction of Flex drivers in those states, could recover unpaid wages and other damages, and Amazon will incur around \$34 million in filing fees related to the claims, but the rulings in these cases will not require Amazon to change its labor practices.⁸⁵

And it is not only through class action waivers that Amazon has attempted to block Flex drivers from taking collective legal action. In April 2025, it came to light that Amazon had hired a team of lawyers to covertly reach out to Flex drivers who were potential participants in an ongoing federal class action lawsuit against Amazon alleging independent contractor misclassification and wage theft. Those lawyers collected sworn declarations (also known as “Happy Camper” statements) from Flex drivers that could potentially block the drivers from joining the class action. The Flex drivers who brought the original lawsuit filed a motion in court urging corrective action and sanctions against Amazon for its “calculated manipulation of the judicial process.”⁸⁶

Connecting Various Facets of the Amazon Flex Labor Model

Different facets of Amazon's Flex labor model interrelate and combine to erode job quality for Flex drivers, as described in Figure 2 below.

Figure 2. **Interrelated Amazon Flex Labor Practices and Their Job Quality Effects**



The section that follows delves into Flex driver job quality issues stemming from Amazon's Flex labor model.

Flex Driver Job Quality Issues

Amazon's Flex labor model subjects drivers to a host of job quality issues related to pay, benefits, safety, equity, job stability, and agency at work.

Wage Theft and Unlivable Pay

Amazon owes me 145 unpaid tolls from my time driving for Amazon Flex, just in 2024, amounting to about \$2,320. I've tried every way I can think of to get Amazon to pay me the money I'm owed, but I've never received a positive outcome from Amazon. When I send emails or use the in-app complaint system I receive automated replies. Even calling Amazon support has not been of any help. I've got two kids in college and can't afford that Amazon continues refusing to pay me. I feel like a bank, financing a company as rich as Amazon.

—ZE, Flex driver in New Jersey⁸⁷

Amazon's misclassification of Flex drivers as independent contractors allows the company to steal wages in multiple ways and can leave Flex drivers with pay below subsistence levels.

- **Pay below the minimum wage after expenses:** Amazon's Flex program landing page states that Flex drivers can expect to earn between \$18 and \$25 per hour, but the finer print on its "FAQ" page clarifies that Amazon will pay workers \$15 to \$19 per scheduled hour.⁸⁸ And these earnings ranges do not account for expenses such as gas, tolls, vehicle maintenance, and insurance, nor do they factor in substantial off-the-clock work Flex drivers do in order to stay on the platform. After factoring in those costs, drivers can earn well below applicable minimum wage rates. A 2018 study by financial analysts at AllianceBernstein found that average Flex hourly earnings were just \$5.30 after expenses,⁸⁹ well below the federal minimum wage rate and all state and local minimum wage rates at the time. The pay rates Flex offers to drivers have not increased since that 2018 study, and the prices of gasoline and other necessary work expenses that legitimate independent businesses would pass on to customers have only risen.⁹⁰ While Flex pay per block can "surge" with demand, in some cases high enough to raise net pay above minimum wage rates, recent reporting states that surge pricing for Flex blocks is becoming more infrequent.⁹¹ Amazon is currently facing multiple worker claims alleging independent contractor misclassification and minimum wage violations after expenses; these cases have been slowed by Amazon's attempts to move them to arbitration and prevent class actions.⁹²
- **Off-the-clock work:** Paid per "scheduled delivery block," the total time Flex drivers spend working may not be fully compensated. Flex drivers report doing unpaid work—including watching training videos, looking for work blocks, and returning undeliverable packages.⁹³ Much or all of the Flex-related work that goes unpaid would be compensable under local, state, and federal wage and hour laws, and Amazon's digital surveillance of workers means that it already tracks how long workers spend doing such work,⁹⁴ but Amazon mislabels Flex drivers as independent contractors not covered by those laws. At a 2021 Pennsylvania State Senate hearing on independent contractor misclassification, Patricia Hearons, a Flex driver and member of the Philadelphia Drivers' Union, described how Flex drivers' inability to negotiate over pay belies the "independent contractor" label Amazon thrusts upon them, and it leads to Flex driver wages being stolen regularly. Hearons explained that her Flex deliveries often took longer to complete than Amazon's

estimate that unilaterally predetermines driver pay, but contacting the driver support line to get compensated for the extra time was futile. “I know friends who are actual contractors, and when they have to do more work, they get paid more—they change their rates. We have no negotiating power. So, misclassification is wage theft.”⁹⁵

- **Unpaid overtime:** Workers report that Amazon caps Flex drivers’ total scheduled work blocks at 40 hours per week but unpaid time can push Flex drivers into statutory overtime which should be paid at rate of 1.50 percent of a worker’s regular rate under applicable wage and hour laws.⁹⁶ Amazon is currently facing worker legal claims alleging independent contractor misclassification and overtime pay violations.⁹⁷

Inadequate Benefits

I was working a shift as an Amazon Flex driver late last year, and I picked up a package that looked lighter than it actually was. I felt a sharp pain in my back and soon developed weakness in one of my legs. I was out of work for 11 days due to this pain. Amazon doesn’t pay for any insurance, so I had to use my personal insurance when I went to the ER. The doctor told me I needed to go to a back specialist, but to this date, I still haven’t been to the doctor. I know that Amazon won’t provide health insurance or workers comp coverage for my injuries, so I’ve been treating myself with pain medication and anti-inflammatories. I’m still in pain.

– Ester, Flex driver in New Jersey⁹⁸

Amazon does not provide Flex drivers with the kinds of benefits that most employees receive by law. Such benefits provide workers with the flexibility to balance work and life—to help them to care for their health and the health of family members, to make ends meet when they unexpectedly get injured at work or lose their job—and those that enable them to retire from paid work someday. Instead, Amazon has devised a program to provide Flex drivers it labels “independent contractors” with “Flex Rewards” like discounts on gasoline and car maintenance; the program is an example of “gamification” of work that uses point-scoring and prizes to influence worker behavior.⁹⁹

- **No employer-provided health-related benefits and protections:** Misabeled “independent contractors” by Amazon, Flex drivers do not receive the kinds of benefits that most employees receive to help them care for their health or the health of family members. Amazon does not provide Flex drivers, including those working full-time hours, with health insurance coverage. Although delivery work is especially dangerous,¹⁰⁰ Amazon does not pay into state workers’ compensation funds. And while several states require that employers provide their employees with paid family and medical leave and paid sick leave,¹⁰¹ Flex drivers do not receive these benefits. Amazon is under investigation by the Seattle Department of Labor for possible violations of a municipal law that temporarily provided paid sick time to Flex drivers during the Covid-19 pandemic.¹⁰²
- **No clear access to unemployment insurance:** Federally mandated and state-run unemployment insurance (UI) programs provide workers who lose their jobs with financial support until they can find new employment.¹⁰³ An audit of Amazon Flex in Wisconsin found that Amazon owed the state more than \$200,000 in unpaid unemployment insurance contributions over a three-year period;¹⁰⁴ at that rate, across the country, Amazon is depriving state unemployment insurance funds of millions of dollars in contributions. As mentioned above, courts in Wisconsin and Virginia have

found that Amazon Flex drivers are employees under those states' respective unemployment insurance programs.¹⁰⁵

- **No retirement benefit or employer contributions to Social Security and Medicare:** Flex drivers do not receive benefits that help give seniors the financial security to retire, and they are forced to pay the employer portion of federal payroll taxes toward Social Security and Medicare.

Dangerous Working Conditions

Early morning and night blocks are the easiest the catch, but they don't feel safe. Amazon's GPS directs us along narrow, two-way roads with no streetlights. You can get sent to farms and large houses in the country that are really isolated. At one property, I was threatened with a gun—a customer came to the door super upset with a rifle. I was wearing my Amazon vest and headlamp and thankfully he didn't use the gun, but I could have been shot. I don't deliver on that kind of route anymore, so there's less work. And when I'm delivering in the dark, I stay on the phone with my family or a friend.

— MB, Flex driver in New Jersey¹⁰⁶

Last-mile delivery work is dangerous relative to the average job in the U.S.¹⁰⁷ Amazon's Flex labor model may leave its drivers especially vulnerable to work-related injury and increase risky driving behavior that can harm the public. Amazon's constant digital monitoring of Flex driver performance and algorithmic management systems designed to maximize delivery speed can push drivers to take risks and do their jobs in ways that are unsafe. And because Amazon labels Flex drivers as "independent contractors," it is not incentivized to prioritize worker safety like employers who must abide by health and safety laws, pay into workers' compensation funds, bear financial responsibility when workers' compensation premiums rise following on-the-job injuries, and report job-related injuries and deaths to public authorities.

- **Unsafe work pace:** Drivers report driving at unsafe speeds and violating traffic rules to meet algorithmically-set delivery deadlines.¹⁰⁸ The Flex app features an Amazon-designed last-mile delivery route optimization algorithm—Customer Order and Network Density OptimizeR, or "CONDOR"—designed to maximize delivery speed.¹⁰⁹ In a 2022 blog post, Amazon touts CONDOR's "location consolidating" as an important efficiency innovation that reduces driving and delivery time,¹¹⁰ but consolidating stops can place Flex drivers in harm's way, suggesting that workers cross busy highways on foot in order to reduce driving time and increase delivery speed.¹¹¹ Furthermore, stop consolidation makes it appear like a driver's workload is lighter than it actually is when the driver sees the number of stops on their route for the day,¹¹² which could aid Amazon in boosting work intensity while maintaining the same number of stops per block.
- **Heavy and unwieldy loads:** Individual items may be heavy. Unlike delivery workers who use specially designed trucks and vans (e.g., with liftgates that assist in raising and lowering heavy items) and employer-provided equipment (e.g. hand-trucks), and receive training on how to use equipment safely, Flex drivers use personal vehicles without features like liftgates and many vehicles cannot physically accommodate a quality hand-truck in addition to all the packages allotted for a delivery block. Flex's route optimization algorithm may suggest that Flex drivers carry multiple heavy packages at once in order to reduce driving time and increase delivery speed.¹¹³
- **Overnight hours:** Overnight shifts, especially when irregularly assigned, can wreak havoc on Flex drivers' body clocks and force them to work while exhausted.¹¹⁴ Routes algorithmically designed to

maximize efficiency might favor overnight hours when traffic is lighter. Research shows that intermittent night shifts can increase risk of cardiovascular disease, diabetes, and even cancer, and have negative effects on social and family life.¹¹⁵

- **Delivery location hazards:** At least six Flex drivers have been shot by customers,¹¹⁶ and Flex drivers report encounters with vicious pet dogs,¹¹⁷ exacerbated by overnight hours.
- **Extreme weather:** Flex drivers make deliveries in extreme heat, cold, and weather events like tornadoes, snowstorms, and even wildfires. In January 2025, a Flex driver was dispatched into the Palisades Fire zone after mandatory evacuation orders had been issued.¹¹⁸ And Flex drivers are brought in to relieve DSP drivers during heat waves, although they don't have health and safety protections that DSP employees have.¹¹⁹
- **Chronic stress:** Micromanagement by constant surveillance and opaque algorithm, and working under threat of deactivation, can have a negative impact on Flex drivers' mental health, leaving workers with chronic stress and anxiety.¹²⁰

Racial Discrimination

I'm not delivering where I see a Confederate flag.

– OJ, Flex driver in New Jersey and Georgia¹²¹

Amazon's Flex labor model and the racist and xenophobic products sold on the Amazon retail platform leave Flex drivers, who, as noted above, are largely people of color and immigrants, prone to racial discrimination. And that discrimination can have impacts on various job quality measures discussed in this section.

- **Amazon Flex's irregular routing and absence of branded vehicles can put workers of color in harm's way:** Without regular routes, Flex drivers driving their unbranded personal vehicles are constantly sent to new locations. According to academic researchers studying Flex drivers, "By assigning tasks during atypical hours and requiring gig workers to use their personal clothing, tools and vehicles, platforms strip delivery workers of signifiers that legitimate their presence in consumers' neighbourhoods...exposing them to threats of physical and symbolic violence."¹²²
- **Amazon's automated systems can translate customer racism into negative material outcomes for Flex drivers:** Racist behavior by customers can affect Flex drivers' future access to work, pay, and benefits. In Georgia, a Black Amazon Flex driver who was wearing a branded Amazon vest was denied access to a gated community by a white resident of the community who said that her "kind" didn't belong there.¹²³ Because Flex drivers are evaluated on their ability to complete deliveries and their access to delivery blocks is affected by their performance history (see the pullout box below on the "Standing" algorithm for details), customer racism that impedes Flex drivers' ability to do their jobs can have negative material impacts on drivers.
- **Amazon's sale of products promoting racial and ethnic hatred increases the likelihood that Black and Brown drivers will face discriminatory treatment:** A study by the Action Center on Race and the Economy showed how Amazon sells products featuring "Confederate and anti-Black imagery, Nazi and fascist imagery, and the newly adopted imagery of the modern white nationalist movement."¹²⁴ Flex drivers who are people of color and immigrants delivering to customers that order such products face a greater risk of experiencing racially motivated mistreatment.

Job Insecurity and Unstable, Inflexible Work Schedules

Flex drivers' access to work is uncertain.

- **Suspension and termination risk:** Flex drivers are subject to suspension and termination by non-transparent algorithms,¹²⁵ as the pullout box at the end of this section details.
- **Unstable schedules and hours:** Flex drivers' access to work blocks is unpredictable and determined by opaque algorithms, including the "Standing" algorithm, as detailed in the pullout box below. Flex drivers report struggling to piece together enough hours to cover their basic expenses, feeling the need to spend hours logged into the app looking for work. A Flex driver in New Jersey named Angela explained how she must constantly be on the Flex app seeking delivery blocks to secure enough work to make ends meet: "Out of 24 hours of the day, I spend 16 hours looking for a [delivery] block."¹²⁶
- **App lockouts and the absence of real control over scheduling:** To control the supply of workers, Amazon sometimes locks workers out of the Flex app for periods of time. A Flex driver in New Jersey explained how he has experienced lockouts when he's tried to work beyond five hours in a day. "Despite being classified as an independent contractor, Amazon has a strict limit on the amount of hours you work, only letting you work 40 hours a week. However, they don't allow you to do it all in a few days, you often get blocked if you do more than five hours in a day, meaning that you have to work seven days a week if you're going to reach 40 hours."¹²⁷

Lack of Bargaining Power and a Voice at Work

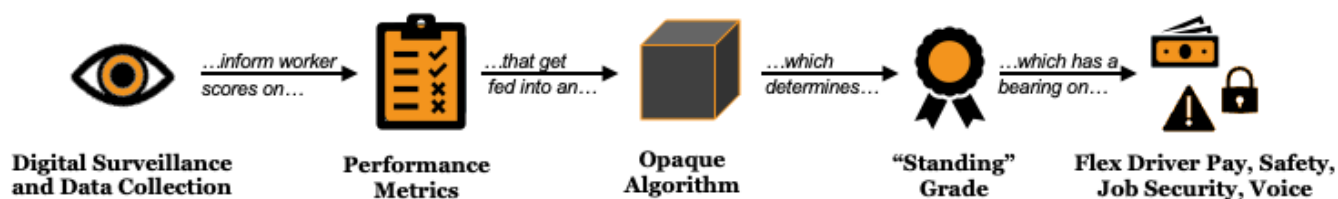
The Flex labor model curtails Flex drivers' ability to raise and address job-related concerns and to negotiate better terms of work.

- **No clear legal access to unions:** Misclassified as independent contractors, Flex drivers do not have clear access to federal organizing and bargaining rights. Unions are the best way to address so many of the issues that Flex drivers face—related to pay, benefits, safety, scheduling, and discipline and discharge.
- **No clear access to minimum wage and other employment rights and protections:** Misclassified as independent contractors, Flex drivers do not have clear access to local, state, and federal wage and hour and other employment rights and protections, which makes their ability to seek recourse for workplace mistreatment especially challenging.
- **Digital surveillance and opaque algorithms can have a chilling effect on worker organizing:** Amazon's constant monitoring of Flex drivers' geolocation, non-transparent disciplinary systems that can mask actions taken in retaliation for worker organizing, and their history of monitoring social media activity can deter workers from organizing.
- **Information asymmetry reduces worker bargaining power:** The data inputs that Amazon collects and uses in data-driven work management systems are not transparent and available to Flex drivers, contributing to the power imbalance they share with Amazon when negotiating or challenging any terms of work.

Flex Drivers' Algorithmically Determined "Standing" Affects Job Quality

Flex drivers are subject to a data-driven performance evaluation system that determines their "Standing" as workers. As Figure 3 illustrates, Flex drivers' Standing is determined through a mix of digital surveillance, data collection and hidden algorithms. And Standing has important impacts on Flex driver pay, safety, and access to work.

Figure 3. Flex Driver "Standing" Inputs and Outputs



According to Amazon, Standing is based on five metrics.¹²⁸ "On-Time Arrival" assesses whether a driver arrives at a delivery pickup location within 5 minutes of their work block start time. "On-Time Cancel" assesses whether work block cancellation occurs at least 45 minutes prior to work block start time. "Delivery Completion" measures the share of items in a block that were delivered. "On-Time Delivery" measures whether packages that indicate a specific delivery deadline reach their destination in time. Finally, "Delivered and Received" measures whether a package is delivered and received by the customer.¹²⁹ Amazon can use its own digital surveillance of Flex drivers to assess "On-Time Arrival," "On-Time Cancel," "Delivery Completion," and "On-Time Delivery." Amazon may assess the "Delivered" metric using photographic evidence it asks drivers to submit, and "Received" can be assessed using data collected from customers.¹³⁰

Factors outside the control of Flex drivers can affect the metrics that determine Standing: Long queues and a lack of parking at a delivery station or a glitching Global Positioning System on a driver's smartphone can negatively affect "on-time arrival"; a customer not at home for a delivery that requires their presence can negatively affect "delivery completion"; traffic can negatively affect "on-time delivery"; and packages being stolen following delivery can affect "delivered and received."¹³¹ Drivers can call a support line to report extenuating circumstances that could affect their Standing, but workers consistently report that calling into those support lines does not restore Standing.¹³² The kind of help Flex drivers get from the driver support line seems to be proscribed by algorithms or automated systems that dictate the responses of call center workers.¹³³

Flex drivers do not know how the metrics that determine Standing are weighted and when and how weighting may change.¹³⁴ The algorithm that determines when and whether an "At Risk" driver is deactivated is opaque.¹³⁵

While the "points" toward "Amazon Flex Rewards" that drivers earn for completing deliveries and blocks are determined by a transparent formula that awards more points for a higher Standing,¹³⁶ the algorithm that determines how those points translate into rewards is less transparent.¹³⁷ Amazon Flex Rewards include the ability to set delivery scheduling preferences, exclusive work block offers, and discounts to offset work-related expenses, which employers would usually cover, like gasoline, car maintenance, and auto insurance.¹³⁸

Broader Impacts of Amazon Flex and Its Labor Model

Amazon Flex's harms extend beyond its direct workforce.

On Workers Beyond Flex

Press reports indicate that Amazon is using Flex as a union-busting tool for other workers in the Amazon supply chain. As mentioned above, Amazon brought in Flex drivers to replace striking drivers working for Amazon Delivery Service Partners.¹³⁹ And some unionizing Whole Foods workers could be vulnerable as well—the Flex Shop and Deliver program sees Flex drivers enter Whole Foods stores and shop for grocery items before delivering them, doing work that overlaps with what “online order shoppers” at Whole Foods stores are hired to do.¹⁴⁰

The rapid work pace that Amazon and its CONDOR algorithm inflict on Flex drivers, who work without clear access to any health and safety protections, could have upstream effects on the crushing work pace Amazon demands of warehouse workers preparing the packages they must deliver.

Advocacy groups and reporters have discussed how Amazon is degrading conditions for unionized delivery workers in the public and private sectors.¹⁴¹

On Responsible Businesses

The labor practices Amazon uses to manage the Flex workforce allow the corporation to keep labor costs low and delivery speeds dangerously fast, placing responsible competitors in the delivery and retail industries at a disadvantage, and incentivizing them to take up Amazon's labor model.

Both independent contractor misclassification and forced arbitration are anticompetitive—in giving employers the ability to shed legal and financial risk, they provide law-breaking employers with an unfair advantage over those who are law-abiding.¹⁴² Businesses that misclassify drivers as independent contractors save up to 30 percent in payroll costs.¹⁴³ And mandatory arbitration can enable systemic worker exploitation and abuse that lowers labor costs.¹⁴⁴

While Walmart was the logistics standards-setter during the big box retail era when delivery operations were designed to efficiently stock brick-and-mortar retail stores, in the new e-commerce era with the individual consumer as the delivery endpoint, Amazon sets the standards that other retailers and delivery companies follow.¹⁴⁵ Under pressure from Amazon, top retailers and delivery companies have launched or purchased Flex-like delivery platforms: Walmart owns GoLocal and Spark, Target owns Shipt, and UPS owns Roadie.¹⁴⁶

Amazon explicitly embraces the role of change agent in the last-mile delivery sector. According to Amazon, the Flex “approach and technology are nothing short of disruptive, and promise to challenge traditional approaches, and change the way the industry operates.”¹⁴⁷

On Public Safety and Health

Algorithmically-determined delivery quotas and routes can promote unsafe driving (e.g., speeding and breaking traffic rules) and increase the incidence of vehicular and pedestrian collisions. Disclaiming responsibility for Flex driver injuries and accidents, Amazon does not have a financial incentive to keep delivery speeds at levels safe for drivers and the public.¹⁴⁸

Flex deliveries that use drivers' personal vehicles to deliver packages are less energy efficient than other forms of last-mile delivery that use larger, higher-capacity vehicles.¹⁴⁹ Higher carbon emissions per package mean accelerated climate change and a higher incidence of health issues like asthma and cancer.

On the Efficacy of Employment and Labor Laws

Through its Flex app, Amazon is undermining the efficacy of hard-won labor and employment regulation. Its misclassification labor model and use of mandatory arbitration with class action waivers enervates bedrock labor and employment laws. And Amazon's covert use of digital surveillance and algorithmic management in its Flex operation can hide violations of these statutes. When laws cannot be enforced, people may lose faith in them, and competing businesses that comply with the laws are disadvantaged.



Recommendations

This brief has detailed the many ways in which the Amazon Flex labor model, featuring high levels of automated control and practices that attempt to strip workers of bedrock rights and access to courts, harms workers and leaves them in a state of financial precarity. Cutting to the root of the job quality issues Flex drivers experience will require contending with that labor model, utilizing worker organizing, public policymaking, and government scrutiny and enforcement action.

Changes to Amazon's Flex Labor Model

Amazon should properly classify Flex drivers as employees under labor and employment laws, eliminate independent contractor agreements, arbitration clauses, and class action waivers in its Flex driver contracts, and end its use of opaque algorithmic management practices. But Amazon is not likely to make changes to its Flex labor model without being required to do so by pressure from organized workers or enforceable public policies.

Support for Flex Driver Organizing

Amazon Flex drivers across the U.S. have been building collective power to improve their job quality. Flex drivers are active members of app-based driver organizations and worker centers in multiple states, through which they have helped to lead public policy campaigns.¹⁵⁰ And for years, Flex drivers have been organizing and troubleshooting together on social media platforms; Reddit's Amazon Flex community is among the site's largest with about 125,000 members, and Flex drivers have started several Facebook communities.¹⁵¹

Labor institutions, worker advocacy groups, and funders should support Flex driver organizing—because organized workers can raise job standards by making direct demands of Amazon and by driving pro-worker public policy campaigns.

Organized Flex drivers and other Amazon workers can make direct demands of Amazon to change corporate policies. In New Jersey, Choferes de Flex Únanse/Flex Drivers Unite has been organizing for better conditions. Flex drivers in New Jersey staged walkouts in 2022 and 2024 to demand higher pay and safer conditions, and they've launched an online organizing community.¹⁵²

Amazon's tech workers are especially well-positioned to make demands of their employer that can benefit all workers that Amazon hires. In 2018, Google tech workers led a walkout of tens of thousands that led to the corporation ending its use of arbitration agreements for all its workers.¹⁵³

Flex drivers and their allies in the U.S. can learn from their counterparts organizing abroad. In the United Kingdom, Flex drivers are organizing to improve conditions with a union that represents other app-based workers, and have collaborated with the nonprofit Worker Info Exchange to secure information, accessible to workers under the European Union's General Data Protection Regulation, from Amazon about its Flex algorithmic management practices.¹⁵⁴ In Australia, Flex drivers have worked with the Transport Workers Union to win the extension of wage and other protections to app-based delivery drivers in the state of New South Wales.¹⁵⁵

Public Policymaking That Gets at Amazon's Flex Labor Model

Perhaps the most effective way to improve conditions for Flex drivers for the long-term is to legislate changes to the Amazon Flex labor model.

- **Worker data rights and regulation of workplace digital surveillance and algorithmic management:** Flex drivers would benefit from state and federal laws that establish transparency and accountability requirements for businesses, like Amazon, regarding their use of worker digital surveillance and algorithmic work management practices.¹⁵⁶ Workers should have a right to the data that businesses who engage their labor collect about them and to the data those businesses use to manage them. They should have the right to correct faulty data and data inferences and to challenge data-driven decisions made by businesses benefitting from their labor. And workers need collective data rights—they should be able to access aggregated data that gives contextual meaning to their individual data and allows them to identify and fix systemic problems and abuses.¹⁵⁷
- **More expansive employment standards and defense against policy change aimed at locking Flex drivers and other workers into independent contractor status:** The employment standard within any given worker protection law determines which workers and businesses and other types of hiring entities fall under the law's purview. To ensure that Amazon and other employers are accountable for the working conditions they create and that Flex drivers and other workers have due access to worker protections, employment standards should start with a presumption of employment, which hiring entities can rebut, and include factors that really get at whether workers are running their own businesses.¹⁵⁸ Also critical, especially in the current political moment, is opposing public policies that would lock Flex drivers into non-employee status and strip away employee rights and protections. Amazon is a member of the Coalition for Workforce Innovation, which has been a leader in such efforts.¹⁵⁹
- **Legislation to End Mandatory Arbitration and Class Action Waivers:** The Federal Arbitration Act (FAA) can and should be amended or even repealed by Congress.¹⁶⁰ The previously introduced Forced Arbitration Injustice Repeal Act would amend the FAA to bar corporations from requiring workers and consumers to use private arbitration to resolve legal disputes, and it would prohibit and nullify existing class action waivers in consumer and employee contracts.¹⁶¹ The Restoring Justice for Workers Act would amend the FAA to ban the use of arbitration agreements by employers and protect workers from retaliation for refusal to sign arbitration agreements.¹⁶² Some states have enacted their own version of the FAA, which should be repealed. And because agents acting on behalf of government are not subject to arbitration agreements, state legislation that allows workers to file lawsuits for workplace violations on behalf of the state, such as California's Private Attorneys General Act and the New York's Empire Act, can give workers whose rights have been violated access to courts.¹⁶³

Public Enforcement Action Against and Investigation of Amazon Flex

Government scrutiny and enforcement action can play an important role in determining how Amazon treats Flex drivers and in shaping its labor model going forward.

- **State attorneys general and city attorneys should take legal action against Amazon's misclassification of Flex drivers as independent contractors under state and city labor and**

employment laws. Several states and cities have sued corporations that run similar delivery platforms for misclassifying employees as independent contractors, winning restitution and damages for workers whose rights have been violated and forcing platforms to change their labor practices.¹⁶⁴

- **State workforce agencies should conduct unemployment insurance and workers' compensation audits of Amazon's Flex operations, and require Amazon to pay into social insurance systems.** Amazon's misclassification of Flex drivers as independent contractors costs state unemployment insurance and workers' compensation programs millions in revenue each year.¹⁶⁵ State workforce agencies should conduct audits of Amazon to quantify those losses and require that Amazon pay into those systems, following Wisconsin's example.¹⁶⁶
- **The Federal Trade Commission (FTC) should investigate Amazon's independent contractor misclassification and use of mandatory arbitration in its Flex operation as anticompetitive issues, and bar the practices.** As described above, because independent contractor misclassification and forced arbitration impede workers' access to rights and to courts, they give employers that violate labor and employment laws to reduce labor costs a leg up over those that abide by them. The FTC has investigated Amazon Flex in the past, for tip-stealing, and mandated that Amazon takes corrective action.¹⁶⁷
- **Congress should probe Amazon's Flex operation.** In 2024, Congress launched an investigation into the Amazon Delivery Service Provider (DSP) program.¹⁶⁸ Congress should launch an inquiry into Amazon's Flex to gather information about the operation, including the size of the Flex workforce in the U.S., the share of Flex deliveries that take longer than the scheduled work block, the amount of time and miles Flex drivers spend returning undeliverable packages, data Amazon collects about Flex drivers, data inputs into algorithmic management systems and how those systems are used to manage work, Flex driver crash rates, and Flex driver deactivation rates.

About NELP

Founded in 1969, the National Employment Law Project (NELP) is a nonprofit advocacy organization dedicated to building a just and inclusive economy where all workers have expansive rights and thrive in good jobs. Together with local, state, and national partners, NELP advances its mission through transformative legal and policy solutions, research, capacity-building, and communications. NELP is the leading national nonprofit working at the federal, state, and local levels to create a good-jobs economy. Learn more at www.nelp.org.

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- ¹⁵⁷ Jake Stein and Dan Calacci, “Worker Collective Data Access Rights: Adding Context to Worker Data Protection,” June 2022, available at <https://www.dcalacci.net/papers/202.10.10-collective-data-access-latest.pdf>.
- ¹⁵⁸ The federal Protecting the Right to Organize Act introduced in both houses of Congress in recent years, would give more workers clearer access to collective organizing and bargaining rights by amending the employment standard in the National Labor Relations Act to a clear three-pronged test with a rebuttable presumption of employment. Find the bill at <https://www.congress.gov/bill/118th-congress/senate-bill/567>.
- ¹⁵⁹ Pinto, *supra* note 6.
- ¹⁶⁰ Ocampo, *supra* note 82.
- ¹⁶¹ U.S. Senate Bill 1376 (2023-2024), Forced Arbitration Injustice Repeal Act, available at <https://www.congress.gov/bill/118th-congress/senate-bill/1376/text>.
- ¹⁶² U.S. Senate Bill 4502 (2023-2024), Restoring Justice for Workers Act, available at <https://www.congress.gov/bill/118th-congress/house-bill/8691/text>.
- ¹⁶³ Ocampo, *supra* note 82; Gerstein, *supra* note 81.
- ¹⁶⁴ “Millions in Instacart Funds Ready to be Disbursed,” Office of San Diego City Attorney Mara W. Elliott, May 11, 2023, available at <https://www.sandiego.gov/sites/default/files/nr230511a.pdf>; “Chiu secures \$1 million settlement for workers misclassified by WorkWhile,” Office of City Attorney of San Francisco David Chiu, December 17, 2024, available at <https://www.sfcityattorney.org/2024/12/17/chiu-secures-1-million-settlement-for-workers-misclassified-by-workwhile>; “Attorney General James Secures \$16.75 Million from DoorDash for Cheating Delivery Workers Out of Tips,” Office of New York State Attorney General Letitia James, February 24, 2025, available at <https://ag.ny.gov/press-release/2025/attorney-general-james-secures-1675-million-doordash-cheating-delivery-workers>; “AG’s Office Issues \$6.2 Million in Citations Against National Delivery Service Company Over Employee Misclassification Violations,” Office of Massachusetts Attorney General Andrea Joy Campbell, March 30, 2023, available at <https://www.mass.gov/news/ags-office-issues-62-million-in-citations-against-national-delivery-service-company-over-employee-misclassification-violations>; “Attorney General Schwalb Sues Gopuff for Workers’ Rights Violations,” Office of the Attorney General for the District of Columbia Brian L. Schwalb, March 19, 2025, available at <https://oag.dc.gov/release/attorney-general-schwalb-sues-gopuff-workers>; “IL Attorney General recovers unpaid wages for misclassified workers,” Office of Illinois Attorney General Kwame Raoul, January 17, 2025, available at <https://www.wcia.com/news/state-news/il-attorney-general-recovers-unpaid-wages-for-misclassified-workers/>.
- ¹⁶⁵ NELP, *supra* note 67; John Schmitt, Heidi Shierholz, Margaret Poydock, and Samantha Sanders, “The economic costs of worker misclassification,” Economic Policy Institute, January 23, 2023, available at <https://www.epi.org/publication/cost-of-misclassification/>.
- ¹⁶⁶ Dungan, *supra* note 104.
- ¹⁶⁷ In the Flex program’s early years, Amazon systematically stole millions of dollars in driver tips. Flex driver complaints and media reports prompted a Federal Trade Commission (FTC) investigation that documented a scheme involving a pay algorithm designed to use tips—100 percent of which were explicitly promised to drivers in communications to both consumers and drivers—to subsidize wages and meet the minimum pay rate promised by the corporation. (See Gurley and Cox, *supra* note 51.) The FTC ordered Amazon to reimburse more than 140,000 Flex

drivers \$61.7 million in tips stolen over a two-and-a-half-year period between 2016 and 2019, and to change its pay practices going forward. (See Federal Trade Commission complaint against Amazon.com, Inc. and Amazon Logistics, Inc., FTC Matter/File Number 1923123, U.S. Federal Trade Commission, June 10, 2021, available at https://www.ftc.gov/system/files/documents/cases/amazon_flex_complaint.pdf; “Amazon To Pay \$61.7 Million to Settle FTC Charges It Withheld Some Customer Tips from Amazon Flex Drivers,” U.S. Federal Trade Commission, February 2, 2021, available at <https://www.ftc.gov/news-events/news/press-releases/2021/02/amazon-pay-617-million-settle-ftc-charges-it-withheld-some-customer-tips-amazon-flex-drivers>.) The District of Columbia’s attorney general recently won further damages for those Flex drivers from whom Amazon had stolen tips. (See “AG Schwalb Secures \$3.95 Million from Amazon to Resolve Lawsuit Over Stolen Tips Intended for Delivery Worker,” Office of the Attorney General for the District of Columbia, February 7, 2025, available at <https://oag.dc.gov/release/ag-schwalb-secures-395-million-amazon-resolve>.)

¹⁶⁸ Letter from U.S. Senators to Amazon CEO Andy Jassy regarding the Amazon Delivery Service Partner program, January 10, 2024, available at https://www.murphy.senate.gov/imo/media/doc/amazon_dsp_letter.pdf.

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