



MEMORANDUM

DATE: April 26, 2021
TO: Education, Workforce, and Youth Committee
FROM: Colin Tarbert, President and CEO
POSITION: Support with Amendments
SUBJECT: City Council Bill No. 21-0037
Labor and Employment - Premium Pay for Gig Workers

A handwritten signature in black ink, appearing to read "Colin Tarbert".

INTRODUCTION

The Baltimore Development Corporation (BDC) is reporting on City Council Bill No. 21-0037 – Labor and Employment - Premium Pay for Gig Workers - introduced by Councilmembers Dorsey, Burnett, Cohen, Conway, Bullock.

PURPOSE

For the purpose of requiring certain businesses to provide premium pay to gig workers; prohibiting certain businesses from taking certain adverse actions against gig workers; requiring certain businesses to keep certain records of their compliance with the premium pay requirements; requiring certain notices to be provided to gig workers; including the premium pay provisions within the Baltimore City Wage Commission's scope of enforcement; applying certain fines and penalties for violations of premium pay provisions; defining certain terms; and generally relating to guaranteeing a fair wage to gig workers in Baltimore City.

BRIEF HISTORY

This Bill recognizes that gig workers hired by third-party order, delivery applications and websites are hired as independent contractors, and therefore, do not have access to employee protections such as minimum compensation or safety standards. They are frontline workers during this health crisis, as they provide essential services for Baltimore City residents by delivering meals and groceries to families and seniors. This Bill provides for an additional payment meant to compensate gig workers for the inherit risk they take while operating during a pandemic and the costs they may incur in travel and vehicle maintenance, providing their own personal protective equipment (PPE) and taking other precautions to help curb the spread of COVID-19.

This Bill would not apply to local businesses with their owner delivery staff, instead it only applies to entities who hire 250 or more gig workers worldwide in a calendar year.

BDC understands that the purpose of the Bill is to protect a class of workers that, as contractors, does not have minimum wage or safety protections under federal law. This is morally a good policy, and Baltimore City should protect the rights of these workers. However,

BDC is concerned about some of the potential ramifications of this Bill on the city's local businesses, especially when a prior Bill enacted during the pandemic (City Council Bill No. 21-0007) capped the fees that delivery services could charge to restaurants. There are four (4) concerns that we believe the Council should consider when debating this legislation:

1. The combination of capping delivery service fees under City Council Bill No. 21-0007 and the provisions of this Bill that impose an additional per-stop surcharge may reduce service areas to only the most profitable neighborhoods in the City, and/or impose minimum order sizes that could hurt the sales of local businesses.
2. This Bill would affect only Baltimore City and not the surrounding jurisdictions, putting the City at a disadvantage.
3. Although the Bill prohibits the delivery service provider from passing along the premium pay fee to the customer, there is no prohibition on passing this surcharge along to the local food service business.
4. Finally, there does not appear to be a clear definition of when this premium pay will apply. BDC would recommend that the Bill be clarified to specify that this premium pay only be in effect while the City is still under a State of Emergency order due to COVID-19.

FISCAL IMPACT

None

AGENCY POSITION

BDC **opposes** this Bill as drafted, but would reconsider that position if some of the concerns detailed above are addressed by amendment after deliberation by the Council, in particular ensuring that the added premium does not get passed to the local restaurant or grocery store, and that the applicability of this Bill be limited to a period of time corresponding to duration of the COVID-19 Pandemic.

If you have any questions, please do not hesitate to contact Kim Clark at 410-837-9305 or kclark@baltimoredevelopment.com.

[SG]