



December 13, 2022

The Honorable Marty J. Walsh  
Secretary  
U.S. Department of Labor  
Room S-3502  
200 Constitution Avenue, NW  
Washington, DC 20210

RE: RIN 1235-AA43--Employee or Independent Contractor Classification under the Fair Labor Standards Act: Notice of Proposed Rulemaking

Dear Secretary Walsh:

Lyft submits these comments to the U.S. Department of Labor Wage and Hour Division's notice of proposed rulemaking regarding Employee or Independent Contractor Classification under the Fair Labor Standards Act.

The employment and independent contractor issues that the Wage and Hour Division is considering have the ability to impact millions of workers across the country. While the Department is considering actions, we believe it is critically important to better understand the varying nature of independent work, specifically how and why app-based workers choose to use the Lyft platform and other rideshare platforms.

### **What Workers Want**

While one of the prevailing narratives against app-based work presumes that the workers would prefer to work as employees, that is not what drivers say they want. The [evidence is](#) present: platform drivers are united in wanting to maintain their independence and flexibility while also having access to the benefits and protections traditionally available through employment. Lyft is committed to supporting drivers and advocating for them. We believe in the unique flexibility that the Lyft platform provides drivers, which is why we support new laws that can protect their independence while also providing them with new benefits. The independence that platform driving offers leads nearly three-quarters of **drivers to say they would rather remain independent than be reclassified as employees**. When given the option of keeping their flexibility and independence while also receiving a new suite of benefits, as was the case with California's Proposition 22, driver support for a contractor + benefits model jumps to over 80%.

## Who App Based Workers Are

App-based work provides millions of Americans uniquely flexible work opportunities, leaving room for them to meet other goals, commitments, or obligations. It allows them to work around their many real and unpredictable commitments and their busy schedules in ways that traditional 9-5 jobs could never provide.<sup>1</sup>

The Lyft app works by allowing drivers to log in and receive ride requests whenever they want to drive, wherever they want to drive, and for however long they want to drive. Drivers on the platform have no obligation to work any specific schedules, times, or days. In fact they have no obligation to work at all. They can even choose which rides to take, and decline ride requests that do not work for them without penalty. Drivers can take days, weeks, or even years off from using the platform, before choosing to come back. Additionally, they can use multiple app-based platforms simultaneously, including Lyft's competitors.

Set against the backdrop of historic job openings, with over 10 million open jobs according to the latest U.S. Bureau of Labor Statistics data, drivers understand and support the unique value proposition that app-based work brings. Whether you are a parent with a sick child, have an unexpected obligation, or made the money you intended to make for the day, you can simply turn off the app. Outside of app-based work, we believe there is no comparable minute-by-minute flexibility in the labor market.

Drivers using Lyft take breaks from the platform when they need it, and choose to return (or not) whenever they want. For example, teachers can earn during the summer, and keep their accounts dormant during the school year. Alternatively, a driver saving up for a wedding or finding ways to pay for college can drive more hours at peak times to maximize their earnings.

- 57% of drivers with Lyft routinely provide care for family members or other loved ones
- 96% of drivers with Lyft work or are students in addition to driving on the Lyft platform

Additionally, the vast majority of drivers use Lyft for supplemental income.

- 66% of drivers with Lyft have a job or are looking for a traditional job outside of app-based work
- 95% of drivers with Lyft drive fewer than 20 hours per week. These drivers give the majority of rides on the Lyft platform

Complete flexibility and independence is what differentiates the earning opportunities through app-based companies from anything else in the US economy. Unfortunately, existing employment and labor laws, written almost 100 years ago, were not designed to address this type of work and could force drivers to choose between this flexibility and the kinds of benefits that are tied to traditional employment. Lyft advocates for policies that help drivers find a new path, which includes the best of both worlds: the flexibility that comes with being an independent contractor

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<sup>1</sup> Unless otherwise stated, all data presented are from the [2022 Lyft Economic Impact Report \(EIR\)](#) or the surveys used to produce that report. [Additional details are available in the [Methodological Supplement to the 2021 EIR.](#)]

combined with many of the key benefits and protections traditionally available through employment.

## **What Lyft is Advocating For**

**Lyft supports protecting driver independence, while also providing them with key benefits and protections**, like healthcare access, on-the-job injury protection, and paid sick and family leave. Taking these earnings opportunities away is clearly the wrong solution: [66% of drivers nationwide](#) would stop using app-based platforms if they were compelled to be employees, cutting off valuable earning opportunities for themselves and their families, which is especially critical during this time of rising inflation. Instead, we encourage policymakers to forge new paths for workers who use platforms like Lyft, rather than reverting to century-old models that don't reflect the realities of a modern workforce.

**Lyft believes there is a solution.** We support legislation across the country that establishes **portable benefits**, to provide drivers with access to benefits like health insurance subsidies, paid sick leave, and paid family medical leave, while preserving the flexibility and independence they need and want. In California, Washington state and most recently in Massachusetts, we have demonstrated our commitment to working with all stakeholders in this industry — drivers, policymakers, labor advocates, or interested members of the public — to craft policies that are durable solutions for the future and work best for drivers.

In [California](#), Lyft listened to drivers and, by a 17 point margin, California voters supported an independence-plus-benefits model via a ballot initiative, Proposition 22 in November 2020. The model allows drivers to maintain their independence and flexibility while providing them with benefits that include a stipend to cover the cost of health insurance and on-the-job injury insurance similar to workers compensation. The ballot initiative was supported by an overwhelming majority of drivers and voters from all political backgrounds. It protects the ability of app-based workers to drive whenever, wherever, and for however long they want, while providing them with historic new benefits. Nearly a year after the policy was implemented, **polls show 88% of drivers say Prop 22 has been good for them**, and 84% would recommend other states pass similar laws, and 76% self-reported increased pay.<sup>2</sup>

Prop 22 isn't the only form that independence-plus-benefits could take. A wide range of policy options exist for addressing this issue, including establishing innovative benefits that make sense for independent workers. Following years of negotiations with organized labor in [Washington](#) state, Lyft was proud to support HB 2076 – landmark, first-in-the-nation legislation preserving the flexibility workers in today's economy need, while ensuring earnings certainty and new benefits for drivers - a solution Washington state drivers overwhelmingly prefer.<sup>3</sup> HB 2076 was the product of long-term substantive discussions with legislators across the political spectrum and Teamsters

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<sup>2</sup>[California App-Based Rideshare and Delivery Driver Survey, 2021, EMC Research](#)

<sup>3</sup> Economic Impact Report - Washington, Lyft, 2022

117, a group that has been working with drivers for the better part of a decade. While different from California's Prop 22 in form and structure, HB 2076 is based on the same principles - first, that the flexibility to drive whenever, wherever, on whichever platform and for however long drivers choose is what makes app-based work unique and must be preserved. And second, that this independence can be combined with companies providing drivers with protections and benefits. In Lyft's view, the classification of drivers in app-based work is a public policy and legal question best resolved through legislative change with all stakeholders at the table.

Drivers that use the Lyft platform overwhelmingly prefer the flexibility and independence of being independent contractors. They choose these earning opportunities because full time employment is not a panacea. [92% of Lyft drivers support a policy proposal](#) under which drivers would remain independent contractors, maintain the current flexibility they enjoy, and be given some, but not all, of the benefits that full-time employees receive.

Our goal at Lyft is to continue to advocate for what drivers who use the Lyft platform say that they want. We are committed to working with any group of stakeholders, be they drivers, policymakers, labor advocates, academics, or even interested members of the public, to figure out what works best for drivers and how to forge those policies into durable solutions for the future. The Department should listen to the voices of these drivers and take additional time to develop an approach that considers the realities of the modern app-based workforce.

Thank you for the opportunity to submit these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Caroline Samponaro', with a long horizontal flourish extending to the right.

Caroline Samponaro  
Vice President, Public Policy  
Lyft