

City of Philadelphia



Council of the City of Philadelphia
Office of the Chief Clerk
Room 402, City Hall
Philadelphia

(Resolution No. 160415)

RESOLUTION

Authorizing Council's Committee on Commerce & Economic Development to investigate and hold hearings on the City of Philadelphia's plans to enforce and comply with the U.S. Department of Labor Administrator's Interpretation No. 2015-1, as well as any current or planned standards and practices by which the City currently enforces Employee Classifications.

WHEREAS, The City of Philadelphia regularly promotes the development of new and prosperous economic opportunities; and

WHEREAS, The contracting of such economic opportunities should not be considered lightly or without undue oversight; and

WHEREAS, The full and equal enforcement of the Fair Labor Standards Act protects both businesses and workers alike; and

WHEREAS, The U.S. Department of Labor, Wage and Hour Division Administrator David Weil, released "Administrator's Interpretation No. 2015-1" on July 15, 2015, which seeks to clarify the application of the Fair Labor Standards Act's "Suffer or Permit" Standard in the Identification of employees who are misclassified as Independent Contractors; and

WHEREAS, Worker misclassification is a serious problem for workers, enabling employers to deny access to benefits, to avoid workplace protections, to ignore minimum wage requirements, to deny overtime compensation and leave, to deny unemployment insurance and more; and

WHEREAS, The misclassification of employees results in missed revenue opportunities for Philadelphia; and

WHEREAS, The City Council of Philadelphia Joint Committee on Public Property & Public Works and Technology & Information Services held hearings on April 29, 2016,

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regarding the build out of the Cable Franchise Agreement between the City and Verizon, which left outstanding questions about the legality of contractors working on their cable plant and other systems; and

WHEREAS, On May 4, 2016, the Pennsylvania House Committee on Consumer Affairs favorably recommended Senate Bill 984. SB 984 creates a foundational regulatory framework for Transportation Network Companies, like Uber and Lyft, to operate lawfully within the City of Philadelphia under the regulatory jurisdiction of the Philadelphia Parking Authority; and

WHEREAS, Senate Bill 984 nor the Titles of the Pennsylvania Consolidated Statutes it amends does not provide drivers of either Transportation Network Companies, Cab or Limousine companies basic worker rights and protections such as a guaranteed minimum wage, access to workers compensation, the right to work for multiple platforms or the right to collectively bargain, calling into question the employment relationship between TNCs, Cab, and Limousine companies and its workforce; and

WHEREAS, In order to ensure that TNC and taxi drivers are treated fairly by the Philadelphia Parking Authority, medallion owners and TNCs, the Committee should explore issues of worker misclassification in the Philadelphia driver workforce and should clarify the City of Philadelphia's position on the classification of these drivers; and

WHEREAS, The intentional misclassification of workers is one of the most common ways for corporations to undermine the collective bargaining process and bust unions; and

WHEREAS, While City Council grapples with issues related to job creation and workforce opportunity, we can not lose sight of the fact that every worker in Philadelphia deserves the security, safety and equity that comes with appropriate classification; and

WHEREAS, City Council and the City have a responsibility to ensure that every worker is classified appropriately and that all Philadelphia employers, are complying with Philadelphia, Pennsylvania, and Federal Law, including the appropriate licensure of contractors and the responsibilities of contracting entities as outlined in Ordinances 120775-AA and 120776; and

WHEREAS, The Council of the City of Philadelphia has an interest in ensuring compliance with the Fair Labor Standards Act for the employer relationships that exist within the City; now, therefore, be it

RESOLVED, that the Committee on Commerce & Economic Development, Is hereby authorized to conduct public hearings to examine the City of Philadelphia's plans to enforce and comply with Administrator's Interpretation No. 2015-1, as well as any

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current or planned standards and practices by which the City currently enforces Employee Classifications.

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CERTIFICATION: This is a true and correct copy of the original Resolution, Adopted by the Council of the City of Philadelphia on the fifth of May, 2016.

Darrell L. Clarke
PRESIDENT OF THE COUNCIL

Michael A. Decker
CHIEF CLERK OF THE COUNCIL

Introduced by: Councilmember Henon

Sponsored by: Councilmember Henon and Green