

## BACKGROUND

I delivered for a local pizza franchise for three weeks earlier this year. It was easy and rewarding, but while driving I did some calculations in my head and realized that the delivery driver is subsidizing the owner's business and bottom line.

I contend that the business owner(s) is using his delivery personnel to support his income, by cheating them out of mileage. I have addressed this with him, to which he became defensive, and did NOT change his procedures, and said he "felt threatened" by my inquiry. He says he referred my concerns to his district manager, and the reply was "corporate does not have a policy addressing mileage" (which makes me believe this is a corporate level discrepancy). Bottom line, the owner (franchisee), and perhaps corporate believe that if their delivery drivers are paid minimum wage, mileage and other costs borne by the employee are a non-issue.

1. The pay is designed as follows.
  - a. A tip wage (per hour)
  - b. Credit card tips (which will be added to the tip wage to bring up the tip wage to minimum wage (not out of the owner's pocket).
  - c. A \$1 "delivery bonus" per delivery (while ensuring quick delivery turnaround, also included in the procedure to bring up the tip wage to minimum wage).

I'm not questioning 1a or 1b ... but 1c.

This \$1 encourages the delivery personnel to take risks. It cost the driver in their car note, insurance, fuel, and depreciation. There is no impact on the business owner at all. No matter the mileage the delivery personnel get \$1. Less than a mile to over 20 miles round trip, one dollar. The owner charges up to \$4.99 as a delivery fee. In my estimation this one business easily averages between 65 and 100 deliveries a day.

21 Feb - 6 Mar 2022			Minimum Wage	Mileage	Tips	Delivery Bonus		Per Hour Rate	
A	My Calculation (2 wks) Federal Minimum Wage (Should have received)	30.05 Hours, and 58 Deliveries (approx 14 miles each)	\$217.86	\$475.02			\$692.88	\$23.06	Which I did not receive
B	My Calculation (2 wks) State Minimum Wage (Should have received)	30.05 Hours, and 58 Deliveries (approx 14 miles each)	\$375.63	\$475.02			\$850.65	\$28.31	Which I did not receive
C	Business Owner's Determination	30.05 hours @ \$7.00 an hour	\$210.35		\$297.71	\$58.00	\$566.06	\$18.84	Which I did receive
D	Extreme (taking into account the mileage expense)	30.05 Hours, and 58 Deliveries (approx 14 miles each)	\$210.35	-\$475.02	\$297.71	\$58.00	\$91.04	\$3.03	

The above uses a low approximation for the deliver mileage. **NOTE: The mileage rate used is the IRS reimbursable mileage rate for the period 1 Jan – 30 Jun 2022.**

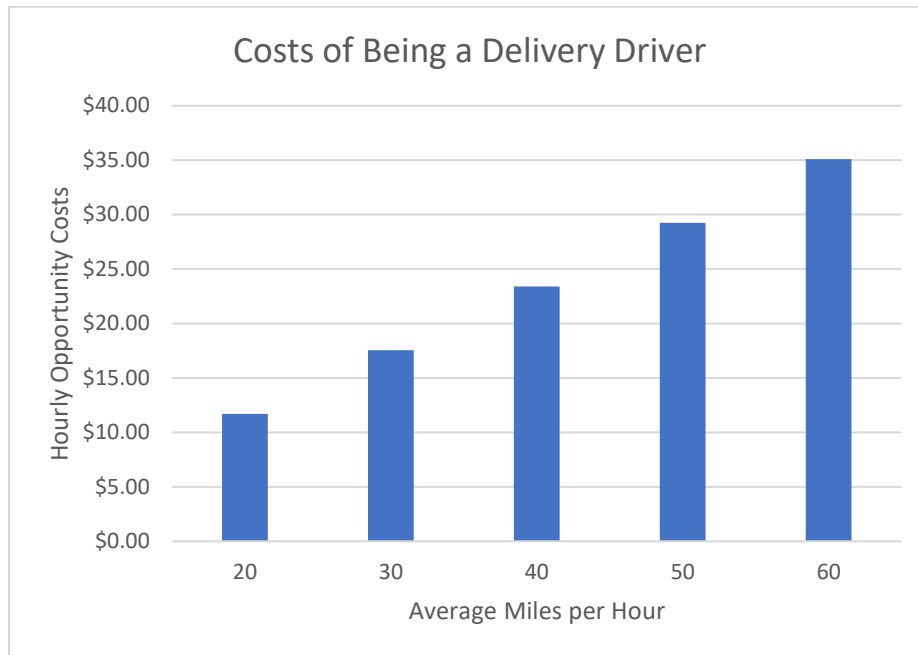
**Line A**, above I used the Federal minimum wage, the math is different, but there still is a shortage (( $\$692.88$  (should have received) –  $\$566.06$  (received) =  $\$126.82$  (shortage))).

**Line B**, above should illustrate the math I used to quantify this discrepancy (( $\$850.65$  (should have received) –  $\$566.06$  (received) =  $\$284.59$  (shortage))), using mileage and the Maryland State minimum wage.

**Line C**, is what the business owner determined what I received.

Let's look at this another way. Because I wasn't paid mileage, it was a cost I absorbed as a driver, a cost of doing business if you will.

**Line D**, is taking into account what the business owner determined I was owed and subtracting my costs. Providing me with an hourly rate of  $\$3.03$ , far below the Federal and Maryland state minimum wage.



Please keep in mind that minimum wage doesn't change, and the quicker someone is, their costs increase, while the owner's profit increases--exponentially. While the driver's return may increase, it is disproportional when compared to the increase in owner's profit.

This happened to me over a period of two weeks. This could aggregate to over \$7,000 annually, and that's just one person. It is numerically possible for a delivery person to absorb all costs and essentially work for free or lose more than they make.

7 Mar - 20 Mar 2022		Delivery							
		Minimum Wage	Mileage	Tips	Bonus		Per Hour Rate		
E	My Calculation (2 wks) Federal Minimum Wage (Should have received)	10.9 Hours, and 19 Deliveries (approx 14 miles each)	\$79.03	\$155.61		\$234.64	\$21.53	Which I did not receive	
F	My Calculation (2 wks) State Minimum Wage (Should have received)	10.9 Hours, and 19 Deliveries (approx 14 miles each)	\$136.25	\$155.61		\$291.86	\$26.78	Which I did not receive	
G	Business Owner's Determination	10.9 hours @ \$7.00 an hour	\$76.30		\$102.15	\$19.00	\$197.45	\$18.11	Which I did receive
H	Extreme (taking into account the mileage expense)	10.9 Hours, and 19 Deliveries (approx 14 miles each)	\$76.30	-\$155.61	\$102.15	\$19.00	\$41.84	\$3.84	

The above uses a low approximation for the deliver mileage. (Halfway thru this two-week period, I was terminated, because I asked for mileage reimbursement.)

Line E, above I used the Federal minimum wage, but there is a shortage

**Line F**, above should illustrate the math I used to quantify this discrepancy ( $(\$291.86 \text{ (should have received)} - \$197.45 \text{ (received)}) = \$94.41 \text{ (shortage)}$ ), using mileage and the Maryland State minimum wage. ( $(\$234.64 \text{ (should have received)} - \$197.45 \text{ (received)}) = \$37.19 \text{ (shortage)}$ ).

**Line G**, is what the business owner determined what I received.

Again, let's look at this another way. Because I wasn't paid mileage, it was a cost I absorbed as a driver, a cost of doing business if you will.

**Line H**, is taking into account what the business owner determined I was owed and subtracting my costs. Providing me with an hourly rate of \$3.84, far below the Federal and Maryland state minimum wage.

Unfortunately, this also shows that one's hourly wage can go up, the less they work. I haven't done the math to expand on this thought.

The impact of this is the owner has no concern when he decides to lengthen his delivery area. There is inter-franchisee competitiveness to be the highest grossing location. One way of achieving this is to broaden the delivery area. The costs are borne by the drivers. In this manner the drivers are being taking advantage of and losing money (mileage) while the owner has "discovered" a cash cow.

Another nuance is taking delivering multiple orders on one trip. For illustration purposes, let's say three deliveries in the same neighborhood ten miles one way. The driver, again at their expense, drives 20 miles round trip, and makes 3 dollars (but should have received mileage of \$11.70), while the owner makes 12 dollars (3 delivery fees \* \$4 each). I contend the driver should have received the "mileage" for the three deliveries, and maybe increased their profit margin. But that's not the way the "system" is designed, further taking advantage of the employees.

When one orders a pizza and the delivery charge is mentioned, they often think that charge is going to the driver. One could rationalize that "if I went to pick it up, I'd drive 10 miles both ways, I'll just pay for them to deliver it." The driver only receives a small portion of that fee.

What kind of person becomes a delivery driver? Rhetorical, but is another factor of my claim. Luckily, I didn't work for him long, and can make a spreadsheet illustrating my frustration, in preparation of seeking restitution.

When I asked for assistance with this issue from the US Department of Labor Wage and Hour Division, I got the impression they understood what I was saying, agreed with my math, and synopsis, but due to current regulations there was nothing they could do. During one call, it was mentioned that the employee could claim mileage on their taxes, which I found unconscionable. Why would the taxpayers be the ones to pay for the employees' mileage, while the franchise owner profited? Why should the employee wait, what could be 14 months to claim their mileage?

I addressed this issue with a local business owner, and he was evasive, denied wrongdoing, and in fact told me I was threatening him. During our conversations, he stated that he checked with his district manager, and there is no corporate policy. One establishment is small potatoes, but if there truly is no company policy, this procedure could be corporate wide, and have been happening much longer. In this manner the delivery person is subsidizing the owner's income. Numerically, say a couple hundred deliveries a week, the imbalance is substantial.

**REQUESTED ACTION:**

Each year the legislature looks at minimum wage. While a necessary action, I would like them to look at mileage reimbursement for delivery personnel. Something to the effect that when a business does not provide a method for delivering their product, they are responsible for reimbursing the delivery personnel at the rate established by the IRS. I would say especially each time a delivery charge is charged, but such a stipulation would mean establishments would call it something else. This needs to be codified.

I would like the mileage to be computed using a recognized vendor such as Google Maps, because I have found the establishment that instigated this request to have a skewed mileage determination. Skewed ALWAYS against the delivery person.

	Google Maps (one way)	Vocelli Website (one way)	Discrepancy
2208 Sheridan Rd	8.6	7.78	<b>0.82</b>
15420B Liberty Rd	9.9	6.65	<b>3.25</b>
14975 Old Frederick Rd	7.2	6.36	<b>0.84</b>
2480 Florence Rd	6.2	3.53	<b>2.67</b>
2113 Florence Rd	6.1	3.77	<b>2.33</b>
14201 Peddicord Rd	7.3	5.48	<b>1.82</b>
14538 Blank Ankle Rd	7.9	6.41	<b>1.49</b>
1427 Streaker Rd	10.4	6.27	<b>4.13</b>
7336 Woodbine Rd	6.9	4.76	<b>2.14</b>
28800 Ridge Rd	4	3.72	<b>0.28</b>
28105 Kemptown Church	7.5	6.3	<b>1.2</b>
?? Patina Row Way	10.2	7.65	<b>2.55</b>
18449 Hidden Crk Way	11	2.78	<b>8.22</b>
		<b>Average</b>	<b>2.44</b>

For example, use the following hyperlink to establish a “distance”.

<https://weborder.vocellipizza.com/GetAddress?ReturnURL=~%2FOrdering>

Then use Google Maps to verify the discrepancy.

A follow-on solution could be that the delivery personnel are not include in the “tip wage” determination. Leaving them in this category is another way minimal compensation obligation is carried by the owner.

Their businesses Point of Sale (POS) software can do a better job, they may choose not to, leaving them claim of deniability. The franchise may have to lessen their delivery zone, but in the long run this will provide a more equitable working environment for those involved.

Hopefully the preceding illustrate two ways a business lawfully undercompensates their employees, with little to no blowback.