

Senate Finance Committee
Senator Pamela Beidle, Chair
Senator Antonio Hayes, Vice Chair
Wednesday, March 5, 2025

*Written Testimony for Uber Technologies, Inc. on SB0938, Fraud Prevention and Worker
Protections - Prohibitions, Penalties, and Enforcement*

The modern approach to work has drastically shifted how people view employment and their opportunities to earn. From taking trips to delivering food, individuals turn to platform work so that they can earn on demand and set their own schedule. And, platform workers across the country have made it overwhelmingly clear that they do not want to lose the unique independence they enjoy—and need. Despite its intended goal of disincentivizing fraud in the workplace and protecting vulnerable workers, SB0938 has the potential to completely upend the flexibility of platform work and shift the way thousands of Marylanders earn a living.

The presumption of employment could adversely impact independent work in Maryland. As noted, SB0938's intention is to address workplace fraud. Nonetheless, proposed language to who is considered a “worker” for purposes of the bill, could fundamentally change how people work and earn because it presumes that *all* workers are employees—unless proven otherwise. This significant change to how workers are classified does not contemplate or consider those who choose to operate as independent contractors. Currently, the independent contractor status in Maryland allows for those engaged in platform work to freely choose when and where they want to work. This flexibility allows individuals to balance their lives as they see fit and use the majority of their time however they choose. In fact, in Maryland, nearly 80% of drivers drive less than 30 hours a week; and 90% of couriers deliver food less than 30 hours a week. This means Marylanders are determining how to use their time without the burden of a set schedule. Moreover, the bill's ABC classification test would make Maryland one of the most challenging states in the country for platform workers—and other ICs—who wish to maintain their independence. In order to protect the current structure—and the flexibility of platform work—SB0938 should be amended to remove the presumption of employment and provide for an exception for those engaged in platform work.

While the policy goals behind such a drastic change may be well intentioned, they do not obtain the results sought. Studies [assessing the impact of California's Assembly Bill 5](#), which is eerily similar to the present bill, have shown none of the policy benefits promised by the bill's sponsors. There has been no broad-based reclassification of independent work into traditional W2 jobs—rather total employment is *down* in the traditional employment economy by 4.4%. And among self-employed workers, that decline is even steeper—there are now 10.4% fewer self-employed workers in non-exempt¹ occupations. The only thing this policy shift has evidenced in California is fewer jobs across the entire economy, with no benefits accruing to workers or the working- and middle-classes.

¹ California's AB 5 (and later AB 2257) exempted over 100 professions, industries, and occupations from the application of its stringent rules. These effects will likely be even more profound under the proposed legislation.

Broad authority could adversely impact platform worker information. SB0938 grants the Commissioner of Labor broad authority to initiate investigations, even without a worker complaint, using subpoenas and business records demands. This authority could place confidential and trade secret information vulnerable to disclosure to competitors. The Committee should ensure that any provisions related to data collection should be done so in a way that minimizes disclosure and protects confidential information.

The current penalty structure is overly punitive and could lead to unnecessary litigation: While it is important to disincentivize bad actors, Uber is concerned that SB0938's penalty structure, as written, is overly punitive. Under the bill, the mere presumption misclassification allows multiple parties to file suit, even simultaneously. This could lead to companies spending significant time and resources to continuously defend themselves. Additionally, fines of \$5,000–\$25,000 per worker, plus additional penalties for record-keeping errors, are disproportionate to potential damages owed. Uber would like to work with the Committee to determine a penalty structure that deters bad actors, allows workers to be made whole, and maintains a fair system where companies are able to respond without using significant resources.

Uber urges the Committee to carefully consider these concerns and the impacts they will have on Marylanders. We would like to work with the Committee to find a more balanced approach that addresses the core issue of workplace fraud and misclassification without these unintended negative outcomes.