

New York City legislation provides no effective protection for food delivery app workers

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On September 23, New York's City Council passed legislation, consisting of six individual bills, supported by the city's Democratic mayor, Bill de Blasio, which purportedly addresses some of the most egregiously oppressive conditions faced by the city's roughly 80,000 food delivery app workers.

These workers face among the worst super-exploitation and life-threatening conditions of any section of the working class in New York and around the world in an industry that has grown exponentially since the start of the COVID-19 pandemic. However, not surprisingly, while the legislation is being hailed in the media as "historic," what was adopted by the Democratic-controlled City Council is a sham, designed to give the impression of addressing the brutal conditions faced by these workers while leaving things fundamentally unchanged.

As the WSWs has reported in the past, these workers, mostly immigrants and many of them undocumented, are extremely vulnerable to exploitation, which is facilitated by the fact that they are employed as "independent contractors" by companies such as Grubhub, DoorDash and Uber Eats, rather than as regular employees. While employee status would certainly not guarantee significant improvements, as the burgeoning struggles of workers around the world clearly attest, the fiction of being "independent" and "their own boss" leaves food delivery workers in an even worse situation. In an indication of just how inconsequential the new legislation really is, Grubhub reportedly expressed support for the measures.

Food delivery app workers' employment is completely at the whim of the companies. With no regular or predictable income, they are forced to work long hours to make what usually amounts to below the city's minimum wage of \$15/hour, which is totally inadequate in one of the most expensive cities in the world. Some companies have been skimming tips, which are an essential part of workers' incomes. Distances to be traveled to make a delivery are

unlimited, with workers subject to "demotion" in priority of being allocated assignments if they decline overly long trips.

Workers, traveling by bicycle or motorbike, are expected to make deliveries under all weather conditions, including recently through streets flooded by the remnants of Hurricane Ida. They receive no paid days off, no medical insurance, and no compensation for the purchase or repair of their vehicles. They are even denied the use of toilet facilities by some of the restaurants for which they make deliveries.

Nor are there any protections from the increasingly violent and sometimes deadly thefts of their "rides," the loss of which makes it impossible for them to continue working. Electric bikes cost in the neighborhood of \$2,000.

In addition, a number of workers have been killed when struck by motorists, often hit-and-run, the latest only last week in Brooklyn. A recent study found that 49 percent of app delivery workers had been involved in some sort of accident or crash. In all, 16 workers have been killed in the last two years.

The New York City legislation leaves the fundamental issue of employment status (i.e., independent contractor vs. employee) unaddressed and provides merely cosmetic remedies for a few of the others. It supposedly provides "guarantees" against a few of the most exploitative practices of the app companies.

Among the legislation's provisions are those that:

- Prohibit companies from charging fees to workers for providing their pay;
- Require disclosure of gratuity policies;
- Prohibit companies from charging workers for the necessary insulated food bags;
- Allow workers to specify maximum distances they are willing to travel and territories within which they will work; and
- Require restaurants to provide workers access to bathrooms.

Patricia Campos-Medina, executive director of the Worker Institute at Cornell University's School of Industrial and Labor Relations in collaboration with Los Deliveristas Unidos, who conducted a recent survey (*Essential but Unprotected*) of conditions experienced by food delivery app workers, was quoted by the *New York Times* as characterizing the new legislation as a "floor" which represents workers' "basic rights." It is nothing of the sort.

The legislation assumes that members of this atomized, oppressed and impoverished workforce, without even the minimal protections of existing labor laws, and dependent on the arbitrary whims of the app company for employment, will be in a position to challenge violations of the new law's "protections" without retribution.

Even if these minimal protections were to be fully implemented, which is doubtful, delivery workers would still be left struggling under horrendous conditions. Workers would still have no guaranteed income, health insurance, paid vacations, compensation for purchase or repair of their vehicles, or protection against the punitive reduction in work allocations or dismissal.

Despite the huge growth in the food-delivery industry since the start of the COVID-19 pandemic, which will only continue as the disease continues to spread, these companies are struggling to make a profit, prompting fierce competition and ever greater pressure to wring profits from their workers. They have expended great efforts to block or gut any legislation that would in any way impede their freedom to set their prices and exploit their workforce. For example, last year in California, the companies sponsored Proposition 22, which allowed them to continue classifying workers as independent contractors.

The New York City legislation also contains a provision to study what delivery workers should be paid. Such "studies" are notorious as mechanisms for delay and finding "equitable" results based on what the companies say they can afford—in other words, maintaining the status quo. The deadline for delivery of the study is January 1, 2023.

Currently, food delivery companies are fighting new city regulations that place limits on the fees that they can charge restaurants for their services.

Efforts have been made by a number of organizations that are associated with the Democratic Party, including Los Deliveristas Unidos, to promote the unionization of the food delivery workers, with the assistance of the Service Employees International Union (SEIU) Local 32BJ.

Workers should be extremely wary of these efforts, which are directly or indirectly associated with existing unions, such as the Teamsters, which is mounting a major effort to unionize Amazon workers. The SEIU has played a major role in blocking or limiting strike actions by health care

workers during the pandemic and enforcing sellout contracts that have left workers understaffed and underpaid.

Statewide legislation, promoted by Uber, was proposed earlier this year to facilitate unionization of gig workers. The effort failed, as it was exposed as a mechanism designed to subordinate workers' interests to those of the union bureaucracies. The proposed legislation would, among other things, have included a provision to establish a "labor peace" agreement, under which no strikes, protests or other such actions by the workers would be permitted. Workers would have had no effective voice in fighting for their demands and, as has become the primary role of these organizations over the last half century, the unions would function as labor contractors, catering to the interests of the companies while obtaining a new source of revenue to support the union bureaucrats via members' dues.

It is telling that the more than year-long campaign by Los Deliveristas Unidos to pressure politicians to adopt legislative protections for delivery workers has yielded nothing more than this pitiful fig leaf of a law. Such efforts are predicated on the conception that the capitalist political establishment, specifically the Democrats, along with thoroughly corrupt unions, can be pressured to provide improvements to workers' living standards. This is a fiction and a diversion. Workers have been subjected to unrelenting attacks on their economic wellbeing for half a century at the hands of both political parties, with the collaboration of the unions. The impact of the pandemic has only intensified this process.

No effective struggle can be waged against these attacks while accepting the limits of capitalism. The only way forward for workers is through the building of new organizations of struggle—rank-and-file committees—in every workplace, that are completely independent of both the trade unions and the Democratic Party and based on an international socialist program.



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