



Disrupting Democracy

How Uber Deploys Corporate Power to Overwhelm and Undermine Local Government

Acknowledgments

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<http://www.citizen.org>

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We are running a political campaign and the candidate is Uber ... And this political race is happening in every major city in the world. And because this isn't about a democracy, this is about a product, you can't win 51 to 49. You have to win 98 to 2. — Uber CEO Travis Kalanick¹

Introduction

From Uber Technologies' origins in 2009 as a San Francisco startup to its current \$50 billion² valuation, the transportation network company³ has in just seven years grown into a powerful global corporation. Today Uber operates in 195 U.S. cities, 396 worldwide. This report tells the stories of conflicts between the company and local governments in eight U.S. cities: Austin, Texas; Boston, Massachusetts; Chicago, Illinois; New York City, New York; Philadelphia, Pennsylvania; San Francisco, California; Seattle, Washington; and Washington, D.C.

This giant and powerful corporation portrays itself as the scrappy rival to entrenched interests, but it is in fact able to deploy far greater political power than its public interest and commercial rivals. In cities across the country, Uber is "disrupting"⁴ local democracy.

Uber's primary business is connecting riders⁵ with drivers, who the company calls "partners," through a smartphone app. Through the app, Uber offers a range of versions of its service in various markets. There's "UberBlack," the original Uber service, through which riders summon high-end vehicles such as limousines. There's "UberTaxi," which enables riders in some markets to hail a taxicab through the app instead of hailing from the street. And there's "UberX," the lower-cost service most frequently associated with the company and which most directly competes with local taxi drivers, through which riders summon drivers who use their personal cars to provide rides for hire. Fares, which can "surge" as much as eight times the base in times of high demand, are automatically charged to the rider's credit card through the app, which also automatically divides the fare between the driver and the parent corporation. The company owns no vehicles itself and claims to employ no drivers. The company considers its driver-partners independent contractors.

¹ Kara Swisher, "Man and Uber Man," *Vanity Fair* (Nov. 5, 2015),

<http://www.vanityfair.com/news/2014/12/uber-travis-kalanick-controversy>

² More than the combined value of Hertz, Avis and Enterprise, the three leading car rental companies. Tom Slee, *What's Yours Is Mine* page 58 (OR Books, 2015).

³ Transportation network company is the term Uber and competitors such as Lyft use to describe themselves. It is also the term most often used for regulatory purposes. See, for example, the California Public Utility Commission web page for transportation network company regulations:

<http://www.cpuc.ca.gov/General.aspx?id=787>

⁴ A term that Silicon Valley businesses adopted from Harvard Business professor Clayton Christensen's theory of "disruptive innovation," *disruption* refers to the way startups compete with larger, more established companies. For a critical look at the term and its usage, see Jill Lepore, "The Disruption Machine" *The New Yorker* (June 23, 2014), <http://www.newyorker.com/magazine/2014/06/23/the-disruption-machine>

⁵ While this service is sometimes called "ridesharing," the AP Stylebook asserts it is more accurate to say "ride-hailing" or "ride-booking." See the "Uber" entree in the AP Stylebook Online at <http://www.apstylebook.com/>.

In each case examined in this report, Uber's expansion has been facilitated through the conversion of money power into political power. When city officials try to enact laws or enforce regulations the company opposes, it fights back political-style campaign tactics and large-scale lobbying. There is no doubt that Uber has developed a business model that is very attractive to many consumers, nor that taxi service is problematic in many cities. But that is not the point. The issue is whether Uber's practices comport with well-functioning local democracies.

There is a pattern to Uber's conflicts with cities. The company often launches in cities in defiance of local officials' interpretations of local regulations, while at the same time insisting on the legality of its business. When local law enforcement and other officials respond, the company mobilizes a campaign to "save Uber." Likewise, the company resists local legislative efforts that attempt to require the company to follow standards similar to those required of taxicab and limousine companies, framing them as attempts to "shut down" Uber. Because customers are required to provide an email address to access the company's app, the company is uniquely poised to turn its customer base into grassroots lobbyists who will sign a "save Uber" petition when the company asks. These petitions, which can generate tens of thousands of signatures, help legitimize the lobbying campaigns the company deploys. These campaigns often include high-powered lobbyists, including some who are former colleagues of the government officials they are lobbying. Uber usually wins these battles against rules and regulations the company opposes, but when it loses, it keeps fighting. When cities pass laws that Uber opposes, the company commonly seeks to have them preempted with Uber-approved state law or repealed through voter referenda.

The businesses in most direct competition with Uber in cities are taxicabs and limousines. When local lawmakers attempt to require Uber to follow standards similar to these companies, those lawmakers are accused of pursuing a "protectionist" or "anticompetitive" agenda as a "favor" for the "taxi cartel." While it may be true that certain kinds of regulations are easier for taxis to incorporate into their business model than Uber, it does not necessarily follow that the purpose of those regulations is to prevent Uber from competing. Nevertheless, this messaging helps Uber, a multibillion-dollar multinational corporation, present itself as a scrappy rebel against "Big Taxi" – an appearance that obscures the real and significant advantages Uber brings to these local regulatory battles.

In addition to Uber's sheer money power, its ability to mobilize email subscribers to sign grassroots petitions and its centralized lobbying strategy efforts (led by President Barack Obama's veteran campaign strategist David Plouffe), the company also has far greater political leverage than the local taxi companies with which it competes. In major cities, taxi business owners hold special licenses, called "medallions," which in some cases have been valued at over \$1 million; taxi companies commonly own and maintain fleets of vehicles; and these companies often employ a sizeable, and sometimes unionized, labor force. The fact that Uber's sole corporate presence within a community is through the smartphone app its drivers and customers use means that Uber can credibly threaten to abandon any given locality with little threat to its overall bottom line. In these scenarios, all Uber stands to lose is the prospect of increased future growth. The same cannot be said of taxies, most of which are locally operated and whose sizeable investments, including

medallions, fleets and drivers, are too great to walk away from without incurring devastating losses.

National controversies, such as sexist remarks by Kalanick and another executive's suggestion that the company spy on critical journalists, have occasionally put Uber on defense.⁶ As a result, Uber has tried to put on a "softer"⁷ face — in particular, the face of campaign strategist David Plouffe. While it may be true that Plouffe's arrival heralded the transformation of Uber into a business with a more professionally coordinated and strategically intentional public message and political agenda, it is not as *The Wall Street Journal* characterizes it, "kinder" and "gentler." Whatever this transformation might be, it is not a retreat. Uber, to use a metaphor often deployed around its conflicts with cities, is on the warpath; democracy, is too often a casualty.

Case Studies

The following eight case studies describe Uber's clashes with city governments across the United States. This list of cities where Uber has attempted to force the dismantling and rewriting of regulations is by no means exhaustive. Nevertheless, the case studies (which are in alphabetical order by city name) illustrate the corporation's pattern of making government prioritize the demands of a profit-driven corporation.

Austin, Texas

Both Uber and its main transportation network company competitor, Lyft, started operating in Austin in the summer of 2014 despite city officials' view that then-in-place regulations did not permit these companies' operations.⁸ In response to these same regulations, the Google's now-defunct transportation network company, SideCar, agreed to cease operations until the Austin City Council took up the issue of updating vehicle-for-hire regulations.⁹ Requirements under the regulatory regime for vehicle-for-hire businesses included acquiring a special permit before operating and making special allowances to ensure accessibility for people with disabilities. "As the current city of Austin code is written, you still have to be a permitted ground transportation service to operate in the city of Austin," an Austin Transportation Department spokesperson told the Texas Tribune. "As of right now, [Uber and Lyft] are not permitted."¹⁰ Both Uber and Lyft argued that the

⁶ Laura Hobson, "To Delete or Not to Delete: That's the Uber Question," *The New York Times* (Nov. 21, 2014), <http://www.nytimes.com/2014/11/23/fashion/uber-delete-emil-michael-scandal.html>

⁷ Douglas MacMillan and Lisa Fleisher, "How Sharp-Elbowed Uber Is Trying to Make Nice" *The Wall Street Journal* (Jan. 29, 2015), <http://www.wsj.com/articles/hard-driving-uber-gives-compromise-a-try-1422588782>

⁸ Robert Grattan, "Uber follows Lyft's lead, launches in Austin despite official ban," *Austin Business Journal* (June 4, 2014) <http://www.bizjournals.com/austin/news/2014/06/04/uber-follows-lyfts-lead-launches-in-austin-despite.html>

⁹ Joy Diaz, "SideCar Disables Ride-Sharing App in Austin for Now." KUT.org (June 6, 2013), <http://kut.org/post/sidecar-disables-ride-sharing-app-austin-now>

¹⁰ Aman Batheja, "Uber, Lyft Rolling Forward, but Uncertainty Lingers," *The Texas Tribune* (June 10, 2014), <https://www.texastribune.org/2014/06/10/uber-lyft-target-texas-cities-despite-unfriendly-r/>

vehicle-for-hire regulations did not apply to them because they neither own the vehicles nor, they claim, employ the drivers, who they categorize as independent contractors. Over the objections of taxi companies, the transportation network companies won temporary permission to operate legally in a 6-1 vote before the city council.¹¹

So Uber and Lyft won temporary legal status even as they launched illegally and avoided legal requirements that competing transportation businesses must follow. Part of how Uber pressured local lawmakers was through an online petition,¹² presumably signed by customers and prospective customers who had downloaded the app. As a transformation of economic power into political power, this victory of the transportation network companies was impressive. One writer dubbed what the Uber and Lyft were doing in Austin “corporate civil disobedience.”¹³ But the companies were just getting started.

In December 2015, the Austin City Council passed an ordinance by a 9-2 vote intended to regulate the transportation network companies more like taxi companies. The most contentious part of the new Uber regulations was fingerprinting requirements for drivers, a policy with which taxi companies already complied. In the weeks ahead of the vote, Uber ran television ads¹⁴ in Austin pleading, “Don’t take Uber away,” and attacked Council Member Ann Kitchen, the chief author of the proposal, with an in-app campaign. In a press release announcing the campaign, Uber stated Kitchen’s proposal “would regulate rideshare companies like a horse and buggy, eliminating Uber’s ability to operate in Austin”¹⁵; Uber’s response was to create “Kitchen’s Uber,” which customers could use to book a horse and buggy.

The defeat spawned the creation of Ridesharing Works,¹⁶ a political action committee largely funded by Uber and Lyft,¹⁷ which paid petitioners to gather the more than 25,000 signatures needed to force the council either to rescind the fingerprinting requirement or to put the question to the voters in a ballot referendum.¹⁸ The council opted to let the voters decide.¹⁹ Having won the

¹¹ David Lee, “Austin Gives Temporary Green Light to Uber, Lyft,” *Courthouse News Service* (Sept. 29, 2014), <http://www.courthousenews.com/2014/09/29/71903.htm>

¹² Uber’s Austin, Texas online petition available at <https://action.uber.org/austin/>

¹³ Ben Wear, “Of Uber, Lyft and how ‘corporate civil disobedience’ works in Austin,” *Austin American-Statesman* (March 22, 2015), <http://www.mystatesman.com/news/news/local/of-uber-lyft-and-how-corporate-civil-disobedience-/nkcZg/#aa687a13.3637473.735694>

¹⁴ Melissa Yeager, “Uber combats regulations in Austin with new ad campaign,” Sunlight Foundation blog post (Nov. 10, 2015), <http://sunlightfoundation.com/blog/2015/11/10/uber-combats-regulations-in-austin-with-new-ad-campaign/>

¹⁵ Press Release, Uber, “Kitchen’s Uber: Horse & Carriage,” (Nov. 4, 2015), <https://newsroom.uber.com/us-texas/kitchens-uber-horse-carriage/>

¹⁶ Ridesharing Works website <http://ridesharingworks.com/> currently re-directs to <http://www.voteprop1.com/>

¹⁷ Ridesharing Works campaign finance report available at: <http://www.austintexas.gov/edims/document.cfm?id=246592>

¹⁸ Genevieve Cato, “Are Uber and Lyft Steamrolling Progressive City Politics?” *Burnt Orange Report* (Feb. 25, 2016),

petition-gathering battle was not enough for Uber. An Uber supporter filed a writ of mandamus reportedly authored by Uber with the Texas Supreme Court²⁰ claiming the proposed ballot language was “purposefully skewed” against the transportation network companies and asking that the language be rewritten. The court denied the writ.²¹

Council Member Kitchen, meanwhile, found herself in the crosshairs of a recall campaign, the first ever in Austin. “These guys out in Silicon Valley like to consider themselves disrupters,” Kitchen told *The Guardian*, “but they’re just another version of what we’ve had before: big business [types] who think they can write their own laws.”²² While Uber and Lyft deny involvement with the recall effort, which was publicly being led by right-wing political action committees Texans for Accountable Government and Austin4All, the parallels between the extreme anti-regulation rhetoric of the campaign and the ideological battle Uber is waging were clear. The recall effort ultimately failed after the county clerk refused to accept the campaign’s formal petition, which lacked the necessary notarization stamp.²³

Before the referendum, Ridesharing Works had received an “unprecedented” \$8.6 million²⁴ from Uber and Lyft and was airing television ads containing claims that a local news report described as “misleading” and “mostly false.”²⁵ The previous record for campaign spending in Austin was \$1.2 million for a mayoral race.²⁶ Mailed flyers and social media campaign messages reproduced the

<http://www.burntorangereport.com/diary/31838/are-uber-and-lyft-steamrolling-progressive-city-politics>; Madlin Mekelburg, “Ahead of Austin Election Over Uber, Local Leaders Take Sides,” *The Texas Tribune* (April 12, 2016),

<https://www.texastribune.org/2016/04/12/state-city-officials-speak-out-against-prop-1-aust/>

¹⁹ Elizabeth Wise, “Austin sends decision on Uber, Lyft to voters,” *USA Today* (Feb. 12, 2016),

<http://www.usatoday.com/story/tech/news/2016/02/12/austin-city-council-uber-lyft-vote-election/80286830/>

²⁰ Ben Wear, “Austin urges Supreme Court to spurn Uber protest of ballot wording,” *Austin American-Statesman* (March 11, 2016), <http://www.statesman.com/news/news/local/austin-supreme-court-must-spurn-uber-protest-of-ma/nqjK2/>

²¹ Madlin Mekelburg, “Texas Court Denies Request Tied to Austin’s Uber Ordinance,” *The Texas Tribune* (March 14, 2016), <http://www.texastribune.org/2016/03/14/texas-supreme-court-denies-request-ruling-uber-ord/>

²² Nellie Bowles, “‘We’re just getting started’: inside Austin’s contentious clash with Uber and Lyft,” *The Guardian* (March 10, 2016), <http://www.theguardian.com/technology/2016/mar/10/uber-lyft-austin-ann-kitchen-sxsw-texas>

²³ Michael Theis, “Recall petition for Austin City Councilwoman tossed out,” *Austin Business Journal* (March 4, 2016), <http://www.bizjournals.com/austin/news/2016/03/04/recall-petition-for-austin-city-councilwoman.html>

²⁴ Nolan Hicks, “Make that the \$8.6 million campaign, as Uber ups ante with another 500k” *Austin American-Statesman* (May 5, 2016),

<http://cityhall.blog.statesman.com/2016/05/05/make-that-the-8-6-million-campaign-as-uber-ups-ante-with-another-500k/>

²⁵ Kevin Schwaller, “FACT CHECK: New ad supports ridesharing claims,” *NBC News* (April 14, 2016),

<http://kxan.com/2016/04/14/fact-check-new-ad-supports-ridesharing-claims/>

²⁶ Nolan Hicks, “Make that the \$8.6 million campaign, as Uber ups ante with another 500k” *Austin American-Statesman* (May 5, 2016),

<http://cityhall.blog.statesman.com/2016/05/05/make-that-the-8-6-million-campaign-as-uber-ups-ante-with-another-500k/>

misleading messages, in particular by making a vote to repeal fingerprint background check requirements sound like a vote *for*, rather than against, stricter criminal background checks.²⁷ Austin Mayor Steve Adler urged voters against the repeal; Ridesharing Works paid \$50,000 to Adler's predecessor, former Mayor Lee Leffingwell, to serve as a spokesperson for the campaign.²⁸ The U.S. Chamber of Commerce also intervened with a letter to U.S. Transportation Secretary Anthony Foxx, suggesting that an Austin vote against Uber could endanger Austin's application for a \$50 million "Smart City Challenge" grant.²⁹ In the days leading up to the vote, Uber sent text messages to customers, urging them to turn out and asking, "Can we count on your vote FOR Prop 1 to keep Uber in Austin?"³⁰

Proposition 1, the referendum question that Uber and Lyft's Ridesharing Works urged Austinites to vote for, lost 56 percent to 44 percent. As a result, the requirement that transportation network company drivers pass fingerprint background checks will remain. "Uber, I think, decided they were going to make Austin an example to the nation," said the leader of an opposing political action committee that Ridesharing Works outspent 50-to-1, "And Austin made Uber an example to the nation." Uber's Austin manager bemoaned the results: "Disappointment does not begin to describe how we feel about shutting down operations in Austin," he said, "We hope the City Council will reconsider their ordinance so we can work together to make the streets of Austin a safer place for everyone."³¹ Uber and Lyft withdrew from Austin the Monday after the vote.³²

In 2015, Uber spent between \$420,000 and \$945,000³³ lobbying the state legislature, where the company favored a bill that would preempt local regulations with an Uber-approved set of statewide standards (which exclude fingerprinting requirements). An online petition supporting the bill had more than 100,000 signatures.³⁴ While the bill may have failed to make progress³⁵ in

²⁷ Genevieve Cato, "Truthiness" Abounds in Campaign for Austin's Prop 1," *Burnt Orange Report* (April 18, 2016), <http://www.burntorangereport.com/diary/32038/truthiness-abounds-campaign-austins-prop-1>

²⁸ Matt Largey, "Uber/Lyft PAC Spent More Than \$5 Million to Campaign For Prop 1 Last Month," *KUT* (April 29, 2016), <http://kut.org/post/uberlyft-pac-spent-more-5-million-campaign-prop-1-last-month>

²⁹ Michael King, "More Strong-Arming From Uber and Lyft," *The Austin Chronicle* (April 24, 2016), <http://www.austinchronicle.com/daily/news/2016-04-24/more-strongarming-from-uber-and-lyft/>

³⁰ Caroline O'Donovan, "Uber Is Texting Passengers Asking For Their Support At The Polls," *BuzzFeed News* (May 2, 2016)

<https://www.buzzfeed.com/carolineodonovan/uber-is-texting-customers-asking-for-their-support-at-the-pol>

³¹ Nolan Hicks and Ben Wear, "Prop. 1 goes down as activist proclaims: 'Austin made Uber an example'"

Austin American-Statesman (May 8, 2016),

<http://www.statesman.com/news/news/local-govt-politics/election-day-voting-light-so-far-on-austins-prop-1/nrJmG/>

³² "Uber and Lyft halt service in Austin, Texas, after voters embrace background-check rules," *Associated Press* (May 9, 2016), <http://www.latimes.com/business/la-fi-tn-uber-lyft-suspension-austin-20160509-snap-story.html>

³³ Ben Wear, "Uber-Lyft legislation runs out of gas in Texas House," *Austin American-Statesman* (May 15, 2015), <http://www.mystatesman.com/news/news/state-regional-govt-politics/uber-lyft-legislation-runs-out-of-gas-in-texas-hou/nmHWT/>

³⁴ Uber's "Support Uber Texas Petition" available at <http://petition.uber.org/texas/>

³⁵ Jim Malewitz, "End of the Road for Tesla, Ride-for-Hire Bills," *The Texas Tribune* (May 14, 2015), <http://www.texastribune.org/2015/05/14/end-road-tesla-uber-bills/>

the most recent legislative session, it is likely that Uber will again push the bill in the next session. On the day after voters rejected Uber and Lyft's Austin referendum, state Sen. Charles Schwertner vowed to introduce legislation that will preempt local transportation network company regulations, which Schwertner called "union-driven efforts to create new barriers to entry for the sole purpose of stifling innovation and eliminating competition."³⁶ The Texas state legislature reconvenes in 2017.

Boston, Mass.

The first major conflict between Uber and local government in the Boston area occurred in August 2012, when the City of Cambridge and the state Division of Standards issued a cease and desist order after citing an Uber driver for non-compliance with local regulations. The sting operation cited the driver for operating an "unlicensed livery" and for calculating fees "using a measuring device not conforming to standards"³⁷ — that is, a smartphone's built-in GPS instead of an approved fare meter such as is used in traditional taxis. Uber responded with a press release³⁸ stating, "Uber will continue full speed ahead," and it did. Within a day of the citation, an online petition had been launched³⁹ by a finance executive,⁴⁰ Governor Deval Patrick's chief of staff was tweeting support⁴¹ ⁴² for Uber and the Division of Standards had reversed its decision.⁴³ Cambridge filed a complaint to overturn the reversal.

³⁶ "Uber and Lyft halt service in Austin, Texas, after voters embrace background-check rules," Associated Press (May 9, 2016), <http://www.latimes.com/business/la-fi-tn-uber-lyft-suspension-austin-20160509-snap-story.html>

³⁷ Hearing decision signed by Charles Carroll, City of Cambridge Director of Standards (April 1, 2012), <https://2q72xc49mze8bkcog2f01nlh-wpengine.netdna-ssl.com/wp-content/uploads/sites/13/2012/08/Div-of-Standards-Decision-re-Uber0-1-1.pdf>

³⁸ "Uber is a first to market, cutting edge transportation technology and the simple fact is that the Commonwealth's regulations were not written with these innovations in mind," from Uber Press Release, "Uber Boston Has Been Served," (Aug. 14, 2012), <https://newsroom.uber.com/us-massachusetts/uber-boston-has-been-served/>

³⁹ Uber's Change.org petition to the Division of Standards of the Commonwealth of Massachusetts available at <https://www.change.org/p/division-of-standards-of-the-commonwealth-of-massachusetts-allow-uber-to-continue-to-operate>

⁴⁰ From Jason Henrichs' CrunchBase profile: "Jason is the Chief Operating Officer of PerkStreet Financial and an active member of the start up community as a board member, advisor, mentor and investor," available at <https://www.crunchbase.com/person/jason-henrichs#/entity>

⁴¹ Tweet from Brendan Ryan, Gov. Patrick's chief of staff, available at <https://twitter.com/brendanbrendan/status/235791964929392641>

⁴² Both Gov. Patrick and Boston Mayor Tom Menino would later tweet in support of Uber. See Mike Debonis "Uber is legal in Massachusetts," *The Washington Post* (Aug. 16, 2012), https://www.washingtonpost.com/blogs/mike-debonis/post/uber-is-legal-in-massachusetts/2012/08/16/0a7df482-e7ea-11e1-8487-64e4b2a79ba8_blog.html

⁴³ Commonwealth of Massachusetts Division of Standards Memo, "Massachusetts Give Green Light for Uber Technologies" (Aug. 15, 2012), <http://www.mass.gov/ocabr/docs/dos/massachusetts-gives-green-light-for-uber-technologies.pdf>

“The taxi industry is heavily regulated for reasons of public safety, consumer protection, and fair competition,” said Cambridge city attorney Elizabeth Lashway. “To allow Uber to sidestep the applicable laws and regulations goes against those principles.”⁴⁴ Cambridge’s complaint ultimately would fail,⁴⁵ but tensions between Uber and its more regulated competitors in the Boston area’s transportation sector would continue to simmer.

It would be just the beginning of Uber’s legal troubles in the Boston area, where the company has faced lawsuits alleging racketeering,⁴⁶ unfair labor practices,⁴⁷ charging consumers unfair hidden fees,⁴⁸ failing to comply with vehicle-for-hire regulations⁴⁹ and, amid high profile rape and sexual assault allegations against drivers, for insufficiently conducting driver background checks.⁵⁰ These events, combined with calls from the city’s unionized taxi drivers to shut Uber down⁵¹ for not complying with the same set of vehicle-for-hire regulations and criticism from local police⁵² have fueled a heated political debate.

In October 2014, Boston Mayor Marty Walsh convened a 24-member Taxi Advisory Committee,⁵³ which included representatives from both taxi and transportation network company stakeholders, to “get a grasp on the changing face of transportation.”⁵⁴ When the committee finally made recommended regulatory changes in March 2016, it would avoid an affirmative regulatory agenda;

⁴⁴ Coleman Herman, “Cambridge sues to overturn state OK of Uber livery service,” *Boston Globe* (Sept. 29, 2012), <http://www.boston.com/business/innovation/2012/09/28/cambridge-sues-overturn-state-uber-livery-service/a5Qp8MbTqLi3Wh0r1u1l9L/story.html>

⁴⁵ Coleman Herman, “Drive On: Cambridge loses lawsuit to keep Uber off the roads,” *Boston Globe* (June 26, 2013), <http://www.boston.com/business/innovation/blogs/inside-the-hive/2013/06/25/drive-cambridge-loses-lawsuit-keep-uber-off-the-roads/k4wRr243CwSoRG1kAjDKSI/blog.html>

⁴⁶ Linda Chlem, “Uber Says Boston Cab Dispatchers Delaying Discovery,” *Law 360* (Sept. 24, 2015), <http://www.law360.com/articles/706839/uber-says-boston-cab-dispatchers-delaying-discovery>

⁴⁷ Jim Vassallo, “Uber Sued in Boston for Mistreatment of Drivers,” *JDJournal*, (June 27, 2014), <http://www.jdjournal.com/2014/06/27/uber-sued-in-boston-for-mistreatment-of-drivers/>

⁴⁸ Eric Levenson, “Uber Faces Class Action Suit for Mysterious ‘Logan Massport Surcharge,’” *JDJournal*, (Nov. 26, 2014), <http://www.boston.com/news/local/massachusetts/2014/11/26/uber-faces-class-action-suit-for-mysterious-logan-massport-surcharge/QIaqx1hW9sIoSn6ReuIKHP/story.html>

⁴⁹ Curt Woodward, “Uber Sued in Boston; Case Could Wind up in Federal Court,” *Boston Globe* (March 12, 2013), <http://www.xconomy.com/boston/2013/03/12/uber-sued-in-boston-case-could-wind-up-in-federal-court/>

⁵⁰ Lauren Gambino, “Uber faces lawsuit in US over two alleged sexual assaults by drivers,” *Xconomy* (Oct. 8, 2015), <http://www.theguardian.com/technology/2015/oct/08/uber-lawsuit-alleged-sexual-assaults-boston-south-carolina>

⁵¹ David Harris, “Boston cab union protest calls for city to shut down Uber (slide show),” *Boston Business Journal* (May 22, 2014), <http://www.bizjournals.com/boston/blog/techflash/2014/05/boston-cab-union-protest-calls-for-city-to-shut.html>

⁵² Joe Shortsleeve, “Boston Police Commissioner Questions Safety Of Uber App,” *CBS Boston* (Feb. 25, 2014), <http://boston.cbslocal.com/2014/02/25/boston-police-commissioner-questions-safety-of-uber-app/>

⁵³ City of Boston Taxi Advisory Committee web site available at <http://www.cityofboston.gov/intergovernmental/taxiadvisory.asp>

⁵⁴ Martin Finucane, “Mayor Walsh appoints committee to review taxi industry,” *Boston Globe* (Oct. 10, 2014), <http://www.bostonglobe.com/metro/2014/10/10/boston-mayor-martin-walsh-appoints-taxi-advisory-committee/tGmt8EzW3rtdIcrbmcTB1M/story.html>

instead, the Boston Police Department, following the recommendations made a series of modest deregulatory changes⁵⁵ intended to relieve taxi drivers.

At the state level, outgoing Governor Deval Patrick proposed a set of transportation network company regulations in December 2014.⁵⁶ The regulations, which Uber praised and taxi companies criticized, would give the state Department of Public Utilities authority to oversee the companies, introduce new licensing requirements and essentially enshrine into law Uber's preferred, fingerprinting-free driver background check process. David Plouffe, who had months earlier become Uber's senior vice president of policy and strategy, had been Governor Patrick's campaign manager during his 2006 and 2010 gubernatorial bids. The Patrick proposal required action by the state legislature before it could be fully implemented, and would spark the introduction of competing versions of legislation and a debate that continues into 2016.

Shortly after Governor Patrick offered his proposal and incoming Governor Charlie Baker took office, the Boston Taxi Owners Association filed a federal lawsuit against the city and the state for failing to require Uber and Lyft to follow the same licensing regulations required of taxi owners.⁵⁷ The licenses, or "medallions," capped the number of cabs that could operate within the city and recently had been valued at as much as \$700,000 for a single taxi medallion. With the success of transportation network companies within the city, the value of the licenses plummeted. A federal judge rejected the lawsuit.⁵⁸ At the same time, Uber was just beginning a unique data-sharing partnership with the city. Through its agreement with the city, Uber would share aggregate driver data for the purported purpose of helping the city alleviate its traffic troubles.⁵⁹

Boston Police Commissioner Bill Evans meanwhile repeatedly expressed skepticism toward the companies⁶⁰ and made known his wish that the companies fingerprint drivers as part of their background checks. Evans' efforts were stymied by the police department's lack of authority over the transportation network companies' operations. Meanwhile, Edward Davis, who served for seven years as the previous Boston Police Commissioner, had become an Uber consultant and

⁵⁵ Jordan Graham, "Boston cabs get relief from regulations," *Boston Herald* (March 2, 2016), http://www.bostonherald.com/business/business_markets/2016/03/boston_cabs_get_relief_from_regulations

⁵⁶ Michael Levenson, "Governor Patrick to seek state oversight of Uber, Lyft," *Boston Herald* (Dec. 10, 2014), <http://www.bostonglobe.com/metro/2014/12/09/governor-patrick-pushes-provide-oversight-ride-sharing-services-lyft-and-uber/a29fXj5gEtDkKDsZHp4HFJ/story.html>

⁵⁷ Nicole Dungca, "Boston taxi owners sue Boston over allowing Uber, Lyft to operate," *Boston Globe* (Jan. 17, 2015), <http://www.bostonglobe.com/metro/2015/01/17/boston-taxi-owners-sue-city-boston-over-allowing-uber-and-lyft-operate/GpP1b0fXLPOFvQJADU0fiO/story.html>

⁵⁸ Jordan Graham, "Judge upholds ride-share rules," *Boston Herald* (Feb. 7, 2015), http://www.bostonherald.com/business/business_markets/2015/02/judge_upholds_ride_share_rules

⁵⁹ Steve Annear, "Uber Shares Its Data with the City of Boston," *Boston Magazine* (Jan. 13, 2015), <http://www.bostonmagazine.com/news/blog/2015/01/13/uber-boston-team-up-data/>

⁶⁰ Amanda McGowan, "BPD Commissioner Bill Evans: Uber 'Out and Out Lied' About Safety Inspections" *WGBH* (Sept. 16, 2015), <https://news.wgbh.org/post/bpd-commissioner-bill-evans-uber-out-and-out-lied-about-safety-inspections>

outspoken defender of Uber's current background check procedures.⁶¹ In February 2016, Evans succeeded in implementing fingerprinting requirements for taxi drivers,⁶² but, despite the convictions of two Uber drivers for sexual assault and the support of police chiefs across Massachusetts,⁶³ not for transportation network companies. In a public forum, Plouffe said the reason for Uber's opposition to fingerprinting was that it would be an additional hurdle to signing up new drivers.⁶⁴

Soon there were competing legislative proposals to regulate transportation network companies pending before the state of Massachusetts. Uber's preferred proposal was introduced by Governor Baker⁶⁵ and is similar to the legislation introduced by the previous administration. A second proposal,⁶⁶ introduced by state Senator Linda Dorcea Forry and state Representative Michael Moran, would add additional regulations, including requiring drivers working through transportation network companies to be fingerprinted and requiring the companies to disclose how they calculate fares.⁶⁷ Neither proposal would preempt stronger local standards. Uber responded to the second proposal with an alert to its email subscribers that specifically named Senator Forry and Representative Moran and claimed,

[E]ntrenched industries that have failed to innovate for decades are attempting to destroy ridesharing in the Commonwealth by pushing a set of proposed regulations that do nothing to address public safety and are specifically designed to drive Uber and other ridesharing companies out of Massachusetts.⁶⁸

⁶¹ Max Lewontin, "Why Massachusetts wants Uber drivers to undergo stricter background checks," *The Christian Science Monitor* (Sept. 17, 2015), <http://www.csmonitor.com/Technology/2015/0917/Why-Massachusetts-wants-Uber-drivers-to-undergo-stricter-background-checks>

⁶² Curt Woodward, "Boston Police are fingerprinting taxi drivers, but Uber says it won't budge," *Boston Globe* (Feb. 23, 2016), <http://www.betaboston.com/news/2016/02/23/boston-police-are-fingerprinting-taxi-drivers-but-uber-says-it-wont-budge/>

⁶³ Brian MacQuarrie, "Mass. police chiefs urge fingerprinting for Uber drivers," *Boston Globe* (Jan. 6, 2016), <https://www.bostonglobe.com/metro/2016/01/06/mass-police-chiefs-urge-fingerprinting-for-uber-drivers/Qtpv15kKODXOY588ADDub0/story.html>

⁶⁴ Curt Woodward, "Boston Police are fingerprinting taxi drivers, but Uber says it won't budge" *Boston Globe* (Feb. 23, 2016), <http://www.betaboston.com/news/2016/02/23/boston-police-are-fingerprinting-taxi-drivers-but-uber-says-it-wont-budge/>

⁶⁵ Dan Adams, "New rules proposed for ride services like Uber, Lyft," *Boston Globe* (April 24, 2015), <https://www.bostonglobe.com/business/2015/04/24/baker-proposes-law-regulate-uber-lyft-other-ride-sharing-services/qIrS2IDNs0WEIrtbNxi60I/story.html>

⁶⁶ H.3702, 189th General Court of The Commonwealth of Massachusetts (2016), <https://malegislature.gov/Bills/189/House/H3702>

⁶⁷ Linda Dorcea Forry and Michael Moran, "Why we want to regulate Uber," *Boston Globe* (Aug. 5, 2015), <https://www.bostonglobe.com/opinion/editorials/2015/08/05/why-want-regulate-uber/VpzjVS6OEteQAnt2Ss8AAI/story.html>

⁶⁸ "With Massachusetts call to action, Uber goes on the offensive," *Metro Boston* (Aug. 4, 2015) <http://www.metro.us/boston/with-massachusetts-call-to-action-uber-goes-on-the-offensive/zslohd--aD7HG2kgzbaWo/>

Forry and Moran pushed back against Uber's characterization of their bill with an opinion article in the *Boston Globe*. They write:

In no way are we trying to 'destroy' companies like Uber. We recognize the positive economic impact these companies have for individual drivers and their families — along with the commuting public. [...] We welcome and encourage the kind of innovation that is behind the growth of ride-sharing services. But innovation must be balanced with public safety and consumer protection considerations, no matter what the industry. If common-sense regulations and keeping people safe are going to 'destroy' Uber's business model, then the model needs to change.

Between 2014 and 2015, Uber spent \$421,559.99 on six lobbyists in the Massachusetts state legislature.⁶⁹ In March 2016, a version of the legislation intended to regulate transportation network companies passed⁷⁰ the state House of Representatives. Though the bill⁷¹ bore a closer resemblance to the Uber-approved version introduced by the administration than Forry and Moran's version, it was quickly panned both by Uber, on the one side and taxi groups on the other. Fingerprinting requirements were not included. The Boston Taxi Association said the legislation perpetuated the transportation network companies' unfair advantages over traditional taxis. And, despite an apparent victory for Uber in the legislation's absence of fingerprinting requirements, Uber objected to provisions that prevent transportation network companies from transporting passengers to and from Logan Airport, license requirements and a prohibition against "surge" pricing in inclement weather.⁷² An Uber spokesperson implied the company would consider withdrawing from the state if the House-passed legislation became law: "The current provisions adopted by the House today will stifle growth and innovation [...] We look forward to working with the Senate to help craft legislation which will allow ridesharing to continue in the commonwealth."

Chicago, Ill.

Uber's earliest public confrontation with the city of Chicago occurred in October 2012, a year after its launch in the city. That month, Chicago taxi companies⁷³ and an aggrieved Chicago consumer⁷⁴

⁶⁹ Massachusetts Lobbyist Public Search database shows Uber paid six lobbyists \$306,809.99 in 2015 and \$114,750.00 in 2014, available at <http://www.sec.state.ma.us/LobbyistPublicSearch/>

⁷⁰ Kennedy Davis, "Massachusetts House passes regulations for Uber, Lyft," *The Daily Free Press* (March 15, 2016),

<http://dailyfreepress.com/2016/03/15/massachusetts-house-passes-regulations-for-tncs-such-as-uber-lyft/>

⁷¹ H.4064, 189th General Court of The Commonwealth of Massachusetts (2016),

<https://malegislature.gov/Bills/189/House/H4064/History>

⁷² Jordan Graham, "Uber Boston GM wants pols to reverse some provisions of new bill," *Boston Herald* (March 8, 2016),

http://www.bostonherald.com/business/business_markets/2016/03/uber_boston_gm_wants_pols_to_rever
[se_some_provisions_of_new_bill](http://www.bostonherald.com/business/business_markets/2016/03/uber_boston_gm_wants_pols_to_rever); Nicole Dungca "Massachusetts House passes bill regulating Uber, Lyft." *The Boston Globe* (March 10, 2016). <https://www.bostonglobe.com/metro/2016/03/09/massachusetts-house-passes-bill-that-would-regulate-uber-lyft/CEvRShkYIhhCyTdN2LQETM/story.html>

⁷³ Nitasha Tiku, "Uber Sued for Consumer Fraud and Unlawful Practices by Chicago Taxi and Limo Companies," *Observer* (Oct. 5, 2012), <http://observer.com/2012/10/uber-lawsuit-chicago-taxi-limousine->

separately sued the company. Among other issues, the lawsuits took issue with the way Uber's app included a mandatory 20 percent gratuity and did not disclose that 10 percent of the fare went to the parent company instead of the driver. The city's Department of Business Affairs and Consumer Protection then cited Uber over the gratuity issue.⁷⁵ Later that month, the same department would propose new regulations for vehicles-for-hire.⁷⁶

Uber responded to the regulatory proposal with an online petition ⁷⁷ framing the regulatory proposal as one that would "prohibit" the company from operating. When the city of Chicago in May 2014 did finally adopt regulations allowing transportation network companies to operate within the law, it was over fierce objections by the owners of taxi permits (also "medallions" in Chicago) and drivers.⁷⁸ A key Uber lobbyist in Chicago was Michael Kasper,⁷⁹ the attorney who defended Mayor Rahm Emanuel's residency status during his 2011 election and who has a note on his website⁸⁰ describing him as Mayor Emanuel's "friend and personal lawyer." Other stories speculate⁸¹ that the financial stake Emanuel's brother Ari⁸² holds in Uber is another influencing factor. Regardless, it would not be the last dispute, especially as the transportation network companies sought to expand to providing airport pickups⁸³ at the same time as medallion owners watched the value of their permits plummet by 30 percent⁸⁴ (a fact that also rankles the banks that

[consumer-fraud-unlawful-practices-travis-kalanick/](http://www.consumer-fraud-unlawful-practices-travis-kalanick/); *Yellow Cab v. Uber*, Case 1:12-cv-07967 (Filed Oct. 4, 2012), <http://www.scribd.com/doc/109136786/Yellow-Cab-v-Uber>

⁷⁴ Jonathan Stempel, "Uber Won't Be Able To Withhold CEO Travis Kalanick's Emails In Gratuity Lawsuit," Reuters/Business Insider (Jan. 2, 2015), <http://www.businessinsider.com/r-uber-loses-bid-to-withhold-ceo-emails-in-gratuity-lawsuit-2015-1>

⁷⁵ Cynthia Dizikes and Hal Dardick, "Chicago accuses cab dispatch company of violating city ordinances," Chicago Tribune (Oct. 26, 2012), http://articles.chicagotribune.com/2012-10-26/news/ct-met-cab-company-citation-20121026_1_travis-kalanick-violations-taxi

⁷⁶ Draft for Public Comment, "Public Passenger Vehicle, Other Than Taxicabs, License Holder Rules and Regulations," City of Chicago Department of Business Affairs and Consumer Protection, Public Vehicle Operations Division (Oct. 22, 2012) <http://www.scribd.com/doc/111726091/Chicago-Public-Passenger-Vehicle-License-Rules-for-Public-Comment>

⁷⁷ Press Release, Uber, "Proposed Chicago Regulations to Shut Down Uber Black – We Need Your Help!," (Nov. 1, 2012), <https://newsroom.uber.com/us-illinois/uberchilove/>

⁷⁸ Hal Dardick and Jon Hilkevitch, "Chicago rideshare regulations approved," *Chicago Tribune* (May 28, 2014), <http://www.chicagotribune.com/news/local/politics/chi-chicago-rideshare-regulations-approved-20140528-story.html>

⁷⁹ Ted Cox, "Uber Rallies Voters Against Pro-Taxi Bill, Recruits Cabbies to Convert," DNAinfo (April 10, 2014), <https://www.dnainfo.com/chicago/20140410/west-loop/uber-rallies-voters-against-pro-taxi-bill-recruits-cabbies-convert>

⁸⁰ Ibid

⁸¹ William J. Kelly, "THE CHICAGO WAY: Why Bruce Rauner and Rahm Emanuel are (REALLY) helping Uber," Chicago Now (July 31, 2014), <http://www.chicagonow.com/kelly-truth-squad/2014/07/the-chicago-way-why-bruce-rauner-and-rahm-emanuel-are-really-helping-uber/>

⁸² Natalie Jarvey, "How Uber's New \$17 Billion Valuation Will Benefit Hollywood Investors," The Hollywood Reporter (June 11, 2014), <http://www.hollywoodreporter.com/news/how-ubers-new-17-billion-710771>

⁸³ Fran Spielman, "Uber cleared for pickups at O'Hare, Midway airports," *The Chicago Sun-Times* (Nov. 24, 2015), <http://chicago.suntimes.com/news/uber-cleared-for-pickups-at-ohare-midway-airports/>

⁸⁴ Micah Maidenberg, "Taxi lender: Chicago uber-clueless on ride-bookers' impact," Chicago Business (Feb. 25, 2016), <http://www.chicagobusiness.com/article/20160225/NEWS10/160229928/taxi-lender-chicago-uber-clueless-on-ride-bookers-impact>

invested in the once-lucrative properties) and unionized taxi drivers mobilized⁸⁵ against the airport expansion.

Insurance coverage would become a key point of contention in disputes between the Chicago and transportation network companies. After insurers raised doubts about Uber drivers' coverage during a hearing before the Illinois legislature, Uber's CEO announced⁸⁶ an increase in the coverage it would provide.

Meanwhile, state lawmakers were considering legislation to regulate transportation network companies in Illinois. Uber strongly opposed the bill,⁸⁷ which included provisions to require transportation network company drivers to undergo background checks and acquire commercial insurance, and launched an online petition⁸⁸ against it. In particular, the companies contested the additional regulatory oversight that would be required of transportation network drivers who spend more than 18 hours a week on the job. While the bill's sponsor, Rep. Michael Zalewski, would describe the bill as a "compromise" between taxi interests and the transportation network companies and tell NPR⁸⁹ that Uber's lobbyist (Kasper) supported the proposal, Uber's Midwest manager blasted the bill, which passed 80-26. Once the Illinois Senate passed⁹⁰ its version of the House's bill, Uber pivoted toward calling for a veto from then-Governor Pat Quinn.

Uber employed 13 lobbyists and lobbying firms⁹¹ to amplify its views before the state legislature and the governor during this 2014 legislative battle. Among those lobbyists was Jack Lavin, Gov. Quinn's former chief of staff.⁹² Quinn also was an incumbent in the midst of a heated campaign for reelection — and his opponent, Republican Bruce Rauner (and current Illinois governor), echoed Uber's policy preferences from the campaign trail. "Pat Quinn shouldn't sign this bill," said Rauner

⁸⁵ Tom Ladendorf, "Cab Drivers Stop Traffic at Chicago Airports, Protesting Rahm Emanuel's Uber-Friendly Proposal," In These Times (Sept. 23, 2015), <http://inthesetimes.com/working/entry/18442/cab-drivers-union-midway-ohare-chicago>

⁸⁶ Odette Yousef, "State legislators probe rideshare insurance," WBEZ (March 14, 2014), <https://www.wbez.org/shows/wbez-news/state-legislators-probe-rideshare-insurance/778c0f95-da17-4b08-a096-8377d6ca1990>

⁸⁷ H.B.4075, 98th Illinois General Assembly (2013-2014), <http://www.ilga.gov/legislation/fulltext.asp?DocName=09800HB4075ham003&GA=98&SessionId=85&DocTypeId=HB&LegID=77989&DocNum=4075&GAID=12&Session=>

⁸⁸ Press Release, Uber, "Save uberX in Illinois!" (April 9, 2014), <https://newsroom.uber.com/us-illinois/save-uberx-in-illinois/>

⁸⁹ Odette Yousef, "Illinois House moves to rein in ridesharing," WBEZ (April 11, 2014), <https://www.wbez.org/shows/wbez-news/illinois-house-moves-to-rein-in-ridesharing/79bd0241-5a98-485d-8a4a-12983c7cee7d>

⁹⁰ "Uber blasts latest round of rules in Springfield," Chicago Business (May 16, 2014), <http://www.chicagobusiness.com/article/20140516/NEWS02/140519829/uber-blasts-latest-round-of-rules-in-springfield>

⁹¹ Illinois lobbying database available at <http://www.ilsos.gov/lobbyistsearch/lobbyistsearch>

⁹² Erin Carlson, "What Pat Quinn Has to Do With Uber Expansion," NBC Chicago, <http://www.nbcchicago.com/blogs/ward-room/illinois-governor-Quinn-Uber-Chicago-rideshare-law-266633341.html>

in July 2014. “It sends another signal that Illinois is closed to innovation.”⁹³ But if Quinn was willing to veto the bill? In that case, Uber announced it would create 425 new jobs in Chicago by opening a customer service facility (or “Center for Excellence,” in Uber’s terms). “We’d still add jobs” an Uber spokesperson told Crain’s Chicago Business when asked what would happen if the governor did sign the bill. “But to what extent, we don’t know.”⁹⁴

Gov. Quinn ultimately vetoed the bill. “I am vetoing this legislation because it would have mandated a one-size-fits-all approach to a service that is best regulated at the local level,” said the governor in a statement⁹⁵ that argues the opposite of what Uber advocates claim elsewhere when favorable statewide regulations that preempt local legislation move towards enactment. When Uber announced the expansion of its Chicago headquarters, it did so in a joint press release with Gov. Quinn.⁹⁶ When questioned about the reasoning behind locating a Center for Excellence in Chicago, Uber told BuzzFeed News that the location’s “supportive” government is a factor.⁹⁷

The Washington Post documented⁹⁸ Uber lobbying efforts that helped move the bill toward passage and thwart any attempt by lawmakers to override the governor’s veto. Lobbyists “showered attention” on potentially undecided lawmakers and mailed 60,000 fliers to residents of their legislative districts. “Don’t let special interests leave you sitting on the curb,” said the flier. After a private meeting with Uber lobbyists, the leader of the override effort stopped challenging the veto.

Mayor Rahm Emanuel’s proposed 2016 budget sparked fresh protestations from taxi drivers for allowing transportation network companies to pick up passengers from local airports. Cab drivers protested⁹⁹ and the city council’s Progressive Caucus panned the proposal, saying it favored “the interest of the rich and big corporations” over “Chicago’s working families and our

⁹³ Erin Carlson, “Opinion: What Bruce Rauner’s Uber Love Means For Illinois,” NBC Chicago, <http://www.nbcchicago.com/blogs/ward-room/Bruce-Rauner-Uber-Chicago-Illinois-governor-Pat-Quinn-268288562.html>

⁹⁴ Greg Hinz, “Uber dangles 425 jobs for Chicago — but there’s a catch,” Chicago Business (July 8, 2014), <http://www.chicagobusiness.com/article/20140708/BLOGS02/140709860/uber-dangles-425-jobs-for-chicago-but-theres-a-catch>

⁹⁵ Press Release, Office of Illinois Governor Pat Quinn, “Governor Quinn Vetoes Uber Bill,” (Aug. 25, 2014), <http://www3.illinois.gov/PressReleases/ShowPressRelease.cfm>

⁹⁶ Press Release, Illinois Governor Pat Quinn and Uber, “Governor Quinn and Uber Announce Major Chicago Headquarters Expansion,” (Sept. 29, 2014), <http://insurancenewsnet.com/oarticle/Governor-Quinn-and-Uber-Announce-Major-Chicago-Headquarters-Expansion-a-561081>

⁹⁷ Johana Bhuiyan, “Contracts And Chaos: Inside Uber’s Customer Service Struggles,” BuzzFeed News (March 6, 2016), <http://www.buzzfeed.com/johanabhuiyan/contracts-and-chaos-inside-ubers-customer-service-struggles#.mp6bzwjzV>

⁹⁸ Rosalind S. Helderman, “Uber pressures regulators by mobilizing riders and hiring vast lobbying network,” *The Washington Post* (Dec. 13, 2014), https://www.washingtonpost.com/politics/uber-pressure-regulators-by-mobilizing-riders-and-hiring-vast-lobbying-network/2014/12/13/3f4395c6-7f2a-11e4-9f38-95a187e4c1f7_story.html

⁹⁹ Tom Ladendorf, “Cab Drivers Stop Traffic at Chicago Airports, Protesting Rahm Emanuel’s Uber-Friendly Proposal,” *In These Times* (Sept. 23, 2015), <http://inthesetimes.com/working/entry/18442/cab-drivers-union-midway-ohare-chicago>

neighborhoods.”¹⁰⁰ The budget proposal passed. Then, following the February shooting spree by an Uber driver in Kalamazoo, Mich., and an announcement by the city’s Business Affairs and Consumer Protection Commissioner that the transportation network companies owed the city \$15 million,¹⁰¹ members of the Progressive Caucus proposed new additional licensing requirements for the companies. Critics of the proposal cited campaign contributions¹⁰² from a taxi-aligned super PAC to council members pushing the measure, which ultimately failed.¹⁰³ A federal judge, meanwhile, has called the distinctions the city is making between how it regulates taxis versus how it regulates transportation network companies “utterly arbitrary” — a remark that leads the *Chicago Tribune* to speculate that Chicago taxpayers could be held liable¹⁰⁴ in the lawsuit Yellow Cab and other taxi companies filed against the city.

New York, N.Y.

When Uber launched in New York City in September 2012, it was in the form of a smartphone app for hailing traditional taxis. Canvassers recruited taxi drivers¹⁰⁵ waiting for passengers at LaGuardia Airport. The city’s Taxi and Limousine Commission soon raised questions about the company’s practices, citing rules forbidding taxis from passing up on a fare when en route to another passenger (who hailed a through the app) and a pre-arranged contract between the commission and credit card payment processors. A group representing local taxi drivers identified 11 potential violations built in to Uber’s model. The chairman of the city council transportation committee raised concerns that the app could worsen inequality by creating a “two-tiered taxi system.”¹⁰⁶ Undaunted, Uber carried on with a modest launch and sought to postpone regulatory conflict by offering rides for free. The justification, writes Slate’s Will Oremus: “If it isn’t allowed to charge customers, Uber reasons, it can at least give them a taste of the service in hopes that will pressure city officials to find a way through the regulatory roadblocks.”¹⁰⁷

¹⁰⁰ Ibid

¹⁰¹ Fran Spielman, “Ride-hailing drivers owe city \$15M, fueling demands for licensing,” *Chicago Sun-Times* (March 14, 2016), <http://chicago.suntimes.com/news/ride-hailing-drivers-owe-city-15m-fueling-demands-for-licensing/>

¹⁰² Austin Berg, “Taxi-lobby funding fuels Chicago push to shackle Uber drivers,” *Chicago Now* (March 17, 2016), <http://www.chicagonow.com/city-limits/2016/03/taxi-lobby-funding-fuels-chicago-push-to-shackle-uber-drivers/>

¹⁰³ “Proposed Chicago Ride-Share Regulations Blocked In Committee,” *Progress Illinois* (March 15, 2016), <http://www.progressillinois.com/news/content/2016/03/14/chicago-aldermen-block-proposed-ride-share-regulations>

¹⁰⁴ “Editorial: Chicago aldermen want to help taxis compete with Uber. Consumers will pay.” *Chicago Tribune* (March 17, 2016), <http://www.chicagotribune.com/news/opinion/editorials/ct--taxis-rideshare-uber-chicago-aldermen-emanuel-edit-0318-jm-20160317-story.html>

¹⁰⁵ Adrienne Jeffries, “Uber the outlaw: a rogue startup fights the taxi power,” *The Verge* (Sept. 7, 2012), <http://www.theverge.com/2012/9/7/3300244/uber-taxi-new-york-travis-kalanick-rogue>

¹⁰⁶ Matt Flegenheimer and Brian X. Chen, “As a Taxi-Hailing App Comes to New York, Its Legality Is Questioned,” *The New York Times* (Sept. 4, 2012), <http://www.nytimes.com/2012/09/05/nyregion/as-ubers-taxi-hailing-app-comes-to-new-york-its-legality-is-questioned.html>

¹⁰⁷ Will Oremus, “Uber Tries To Revolutionize NYC Taxi-Hailing, Ends Up Offering Free Rides,” *Slate* (Sept. 5, 2012),

Unable to find a workable compromise, Uber withdrew its taxi-hailing service from New York less than a month later. Two weeks later, the city was circulating proposed rule changes to accommodate Uber.¹⁰⁸ By December, the city had adopted the changes, which Kalanick credited Mayor Michael Bloomberg for pushing. In a statement, Kalanick said Uber's return to New York was "imminent."¹⁰⁹

The courts would twice delay that imminent return, first with a temporary restraining order in March¹¹⁰ and then with an injunction in May.¹¹¹ The court lifted the injunction in June, finally allowing the launch to move forward. It did not begin with a bang: that June, *The New York Times* reported smartphone-arranged trips made up "less than one-quarter of 1 percent of all yellow taxi rides."¹¹²

Two years later, the number of cars affiliated with Uber in the New York City metro area (14,088) would be greater than the number of yellow cabs (13,587) and a proposal to temporarily cap the company's rapid growth would be proposed as a congestion-lessening measure¹¹³ — and ignite a political firestorm against Mayor Bill de Blasio.

Between the summer of 2013 and spring 2015, Uber's "surge" pricing — which can multiply the cost of a trip by more than seven¹¹⁴ — came under fire from New York Attorney General Eric Schneiderman for gouging consumers during a snowstorm.¹¹⁵ And while Kalanick may have dismissed ¹¹⁶ complaints from consumers who were outraged by triple-digit Uber bills,

http://www.slate.com/blogs/future_tense/2012/09/05/uber_taxi_startup_launches_nyc_cab_hailing_app_offers_free_rides.html

¹⁰⁸ Jeff Blagdon, "NYC regulators propose rules for taxi apps," *The Verge* (Oct. 29, 2012),

<http://www.theverge.com/2012/10/29/3574762/nyc-taxi-app-rule-proposal-e-hail-tlc>

¹⁰⁹ Press Release, Uber, "All Hail Another Big Win: NYC Paves Way for UberTAXI," (Dec. 13, 2012),

<https://newsroom.uber.com/another-big-win-e-hail-coming-to-nyc/>

¹¹⁰ Matt Flegenheimer, "Judge Allows Phone Apps for Hailing Yellow Taxis," *The New York Times* (April 23,

2013), <http://www.nytimes.com/2013/04/24/nyregion/judge-allows-pilot-program-using-smartphone-apps-to-hail-yellow-taxis.html>

¹¹¹ "Taxi-Hailing Apps Blocked by Judge," *The New York Times* (May 1, 2013),

<http://www.nytimes.com/2013/05/02/nyregion/judge-blocks-taxi-hailing-app.html>

¹¹² Matt Flegenheimer, "Slow Start for Taxi-Hailing Apps, City Data Show," *The New York Times* (Aug. 5, 2013),

<http://www.nytimes.com/2013/08/06/nyregion/slow-start-for-taxi-hailing-apps-city-data-show.html>

¹¹³ Kaja Whitehouse, "NYC taxi industry to propose cap on Uber," *USA Today* (March 22, 2015),

<http://www.usatoday.com/story/tech/2015/03/20/uber-success-taxis-medallions-congestion/25027241/>

¹¹⁴ Sam Biddle, "The Weekend Uber Tried To Rip Everyone Off," *Gawker* (Dec. 16, 2013),

<http://valleywag.gawker.com/the-weekend-uber-tried-to-rip-everyone-off-1484140137>

¹¹⁵ Nick Bilton, "Customers Out in the Cold Balk at Uber Surge Pricing," *The New York Times* (Dec. 16, 2013),

<http://bits.blogs.nytimes.com/2013/12/16/customers-out-in-the-cold-balk-at-uber-surge-pricing/>

¹¹⁶ Sam Biddle, "Uber's CEO Is Laughing at You on Facebook," *Gawker* (Dec. 18, 2013),

<http://valleywag.gawker.com/ubers-ceo-is-laughing-at-you-on-facebook-1485891066>

Schneiderman's withering criticism seemed to give the company pause. In a *New York Times* opinion article,¹¹⁷ Schneiderman wrote,

In the last year, in bad weather, Uber charged New Yorkers as much as eight times the company's base price. We are investigating whether this is prohibited by the same laws under which I've sued gas stations that gouged motorists during Hurricane Sandy. Uber makes some persuasive arguments for its pricing model, but the ability to pay truly exorbitant prices shouldn't determine someone's ability to get critical goods and services when they're in short supply in an emergency. [...]

Schneiderman and Uber eventually reached an agreement¹¹⁸ to cap surge pricing during "abnormal disruptions of the market" (emergencies and natural disasters). Not everyone was satisfied with this limited cap; a city council member introduced a proposal to ban surge pricing altogether¹¹⁹.

When Mayor de Blasio and the city council in June 2015 introduced a temporary cap on new app-based drivers¹²⁰ for the purpose of studying the effect Uber, Lyft and other app-based ride services were having on traffic (which, because of congestion, had slowed from an average 9.35 miles per hour to 8.51 between 2010 and 2014),¹²¹ Uber responded aggressively. During a hearing on the issue, the company staged a rally outside of City Hall consisting of about 60 demonstrators, most of whom "seemed to be Uber employees or friends of Uber employees."¹²² Inside the hearing, Uber's senior manager for public policy in New York told the council, "Everyone wants less congestion and cleaner air, but this process makes a mockery of these issues — manipulating them to do one thing: stifle competition."¹²³ Capping Uber's growth, the company asserts, is a fundamentally unfair gift to the competition: the taxi industry.

¹¹⁷ Eric T. Schneiderman, "Taming the Digital Wild West" *The New York Times* (April 22, 2014), <http://www.nytimes.com/2014/04/23/opinion/taming-the-digital-wild-west.html>

¹¹⁸ Press Release, Attorney General Eric T. Schneiderman, "A.G. Schneiderman Announces Agreement With Uber To Cap Pricing During Emergencies And Natural Disasters," (July 8, 2014), <http://www.ag.ny.gov/press-release/ag-schneiderman-announces-agreement-uber-cap-pricing-during-emergencies-and-natural>

¹¹⁹ Erin Durkin, "Councilman proposes law to rein in Uber's 'surge pricing'," *New York Daily News* (Nov. 25, 2014),

<http://www.nydailynews.com/blogs/dailypolitics/bill-rein-uber-surge-pricing-blog-entry-1.2023317>

¹²⁰ A Local Law in relation to temporarily limiting the issuance of new for-hire vehicle licenses, Int. No. 842-A (2015), <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2364032&GUID=38613BB6-5A68-416E-9C27-9F43E3C60372&Options=&Search=>

¹²¹ Dana Rubinstein, "Citing congestion, city backs limits on car service growth," *Politico New York* (June 23, 2015),

<http://www.capitalnewyork.com/article/city-hall/2015/06/8570804/citing-congestion-city-backs-limits-car-service-growth>

¹²² Fitz Tepper, "Uber Stages Protest At NYC City Hall Against Bill Throttling New Driver Signups," *TechCrunch* (June 30, 2015), <http://techcrunch.com/2015/06/30/uber-stages-protest-at-nyc-city-hall-against-bill-throttling-new-driver-signups/>

¹²³ Henry Goldman, "New York City Council Joins De Blasio War on Uber With Bid to Limit Growth," *TechCrunch* (July 1, 2015), <http://www.bloomberg.com/politics/articles/2015-07-01/nyc-council-joins-de-blasio-war-on-uber-with-bid-to-limit-growth>

The assertions are made despite the fact that the number of taxis permitted to operate has been strictly regulated since 1937; since then, the city has permitted the number of cabs operating within the city to increase by only 1,800. With the number of Uber-affiliated cars now exceeding the number of yellow cabs in operation,¹²⁴ Mayor de Blasio and the city council decided to act. Uber, for its part, seemed already to be preparing for combat; it had just hired away from the Taxi and Limousine Commission one of its top officials.¹²⁵

Within weeks, Uber was blasting New York airwaves with ads pleading to Mayor de Blasio, “Don’t strand New York”¹²⁶ and had installed an in-app stunt with a “de Blasio view” for riders that displayed an empty map with “no cars available.” The app predicted, “This is what Uber will look like in NYC if Mayor de Blasio’s Uber cap bill passes” and urged riders to contact the mayor and their council members to voice their opposition to the bill.¹²⁷ On Twitter, celebrities such as Uber investor Ashton Kutcher, Kate Upton and Neil Patrick Harris took up Uber’s cause.¹²⁸ David Plouffe, now a chief adviser and board member for Uber, meanwhile was dispatched to New York. One day, Plouffe had a “cordial” one-on-one meeting with de Blasio. The next, Plouffe was holding a press conference with African-American leaders in Harlem to attack the mayor’s proposal.¹²⁹ Uber also directly criticized Councilman Ydanis Rodriguez, claiming in a mailer that he was waging a “war on Uber” that will “kill 10,000 jobs.”¹³⁰ New York media, meanwhile, overwhelmingly tended to side with Uber, with both *Bloomberg News*¹³¹ and *New York Daily News*¹³² characterizing the dispute as de Blasio’s “war on Uber” and *The New York Times* editorial board¹³³ taking Uber’s side — resulting in Uber buying an ad on *The New York Times*¹³⁴ web page to reiterate the board’s sentiment.

¹²⁴ Kaja Whitehouse, “NYC taxi industry to propose cap on Uber,” *USA Today* (March 22, 2015), <http://www.usatoday.com/story/tech/2015/03/20/uber-success-taxis-medallions-congestion/25027241/>

¹²⁵ Matt Flegenheimer, “Taxi Commission Official Plans to Join Uber,” *The New York Times* (May 20, 2014), <http://www.nytimes.com/2014/05/20/nyregion/taxi-commission-official-plans-to-join-uber.html>

¹²⁶ An Uber ad against Mayor de Blasio can be viewed at <https://www.youtube.com/watch?v=ePAxy5PCeuk>

¹²⁷ Ann-Christine Diaz, “Uber Introduces ‘de Blasio’ Mode,” *Creativity* (July 16, 2015), <http://creativity-online.com/work/uber-de-blasio-mode/42741>

¹²⁸ Matt Flegenheimer, “De Blasio Administration Dropping Plan for Uber Cap, for Now,” *The New York Times* (July 22, 2015), <http://www.nytimes.com/2015/07/23/nyregion/de-blasio-administration-dropping-plan-for-uber-cap-for-now.html>

¹²⁹ Dana Rubinstein, “Uber blowup continues de Blasio evolution on taxis,” *Politico New York* (July 21, 2015), <http://www.capitalnewyork.com/article/city-hall/2015/07/8572464/uber-blowup-continues-de-blasio-evolution-taxis>

¹³⁰ “Uber slams de Blasio in new video for proposed cap on cars,” *New York Daily News*, <http://www.nydailynews.com/news/politics/uber-slams-mayor-de-blasio-tv-ad-article-1.2293201>

¹³¹ Henry Goldman, “New York City Council Joins De Blasio War on Uber With Bid to Limit Growth,” *Bloomberg News* (July 1, 2015), <http://www.bloomberg.com/politics/articles/2015-07-01/nyc-council-joins-de-blasio-war-on-uber-with-bid-to-limit-growth>

¹³² “Editorial: Bill de Blasio’s war on Uber: What’s wrong with the mayor’s approach to the dominant car service,” *New York Daily News* (July 19, 2015) <http://www.nydailynews.com/opinion/editorial-bill-de-blasio-war-uber-article-1.2296085>

¹³³ “Editorial: Limiting Uber Won’t End Congestion,” *The New York Times* (July 17, 2015), <http://www.nytimes.com/2015/07/18/opinion/limiting-uber-wont-end-congestion.html>

¹³⁴ Lauren Johnson, “Uber Takes Over *New York Times* Homepage With Large Ad Calling Out the Mayor,” *AdWeek* (July 22, 2015) <http://www.adweek.com/news/technology/uber-takes-over-new-york-times-homepage-fight-proposed-bill-166050>

Plouffe told *The New York Times*, “I think this is less about traffic congestion than it is about political contributions.” Indeed, de Blasio received more than \$550,000 in campaign support from taxi industry donors for his 2013 election bid.¹³⁵ Since then, Uber has between 2014 and the summer of 2015 spent at least \$225,000 on lobbying New York City government, according to city records.¹³⁶

In a July 18 opinion article¹³⁷ in the *New York Daily News*, Mayor de Blasio sought to clarify his intentions. “[W]e’re facing the addition of over 25,000 cars to our streets over the next year,” de Blasio wrote, “the rough equivalent of two times the total number of yellow taxis in all of New York City.” The goals of the proposal, he said, were to protect workers, protect riders, improve accessibility, ensure adequate investments in public transit and to promote low-carbon transport. In response to Uber’s opposition, the mayor insisted he would fight back:

But no company’s multi-billion-dollar political war chest gives it a blank check to skirt vital protections and oversight for New Yorkers. We wouldn’t let ExxonMobil or Wal-Mart or any other corporate giant operate in New York City without basic rules in place to protect the public. And no number of lobbyists or ad campaigns will change that.

The situation worsened for de Blasio when New York Governor Andrew Cuomo entered the fray. “Uber is one of these great inventions, start-ups, of this new economy,” the governor said. “I don’t think government should be in the business of trying to restrict job growth. I don’t believe you can restrict job growth.”¹³⁸ Cuomo was only one of the more visible of de Blasio’s Democrat-affiliated opponents; Politico’s Dana Rubinstein would later characterize Uber’s effort to defeat the temporary cap as “an almost unprecedented display of political power by a corporation in New York.” Rubinstein’s reporting details the breadth of the army of lobbyists and political operatives Uber would amass. Among them: Bradley Tusk, a former press secretary for U.S. Senator Chuck Schumer, deputy governor to disgraced former Illinois governor Rod Blagojevich, and mayoral campaign manager for Michael Bloomberg; Stu Loeser, press secretary for former Mayor Michael Bloomberg; Jimmy Siegel, a marketer who created ads for Hillary Clinton’s 2008 presidential run and Eliot Spitzer’s 2006 gubernatorial campaign, produced Uber’s commercials; Jeffrey Pollock, a pollster associated Clinton’s super PAC; Neal Kwatra, a digital strategist with ties to both Cuomo and de Blasio. Lobbyists for Uber’s campaign against de Blasio also included a range of de Blasio

¹³⁵ Post Staff Report, “Taxi industry gave De Blasio over \$550,000 for campaign,” *New York Post* (May 17, 2014), <http://nypost.com/2014/05/17/taxi-industry-gave-de-blasio-over-550000-for-campaign/>

¹³⁶ Matt Flegenheimer and Emma G. Fitzsimmons, “City Hall and Uber Clash in Struggle Over New York Streets,” *The New York Times* (July 16, 2015), <http://www.nytimes.com/2015/07/17/nyregion/city-hall-and-uber-clash-in-struggle-over-new-york-streets.html>

¹³⁷ Bill de Blasio, “A fair ride for New Yorkers: How the city should respond to the rapid rise of Uber,” *New York Daily News* (July 18, 2015) <http://www.nydailynews.com/opinion/bill-de-blasio-fair-ride-new-yorkers-article-1.2296041>

¹³⁸ Will Bredderman, “Ripping de Blasio Uber Bill, Cuomo Calls E-Hail Apps ‘Great Inventions,’” *Observer* (July 22, 2015), <http://observer.com/2015/07/ripping-de-blasio-uber-bill-cuomo-calls-e-hail-apps-great-inventions/>

backers and individuals with connections to the mayor and Governor Cuomo.¹³⁹ Other elected officials who criticized de Blasio's effort included the city comptroller, the Brooklyn borough president, the Bronx borough president and U.S. Rep. Hakeem Jeffries, the member of Congress who represents Brooklyn and who may run against de Blasio in 2017.¹⁴⁰

Ultimately, de Blasio backed down. Instead of a year-long traffic study and a cap that would slow the company's growth, the city agreed to a four-month study and Uber's offer of greater transparency¹⁴¹ — though it should be noted that the data Uber offered was, from the Taxi and Limousine Commission's perspective, data that the company had so far withheld illegally.¹⁴² While the city portrayed the agreement as a win-win "compromise," the news media declared the contest an overwhelming victory for Uber, which had reportedly "crushed"¹⁴³ and "mow[ed] down"¹⁴⁴ the mayor. The final defeat for the mayor arrived in January 2016 with the release of the long-awaited traffic report,¹⁴⁵ which attributed Manhattan's increasing traffic woes to increased freight movement, construction activity, and population growth — not Uber. The public, meanwhile, came away with a tarnished view of their mayor, with a majority believing the primary motivation for his attempt to regulate Uber was to do a favor for his taxi-affiliated campaign contributors.¹⁴⁶

What might have happened if Mayor de Blasio and the city council had moved forward with the temporary cap on transportation network companies? Again, Politico's Rubinstein offers key insights thanks to emails received under New York State's Freedom of Information Law. During Uber's the July 2015 battle with de Blasio, Uber lobbyists, including Plouffe, were meeting with the governor's office.¹⁴⁷ Anticipating the New York City bill's passage, Uber's lobbyists had drafted for Governor Cuomo a temporary operating agreement allowing the New York Department of Motor

¹³⁹ Dana Rubinstein and Laura Nahmias, "Uber rewrites the book on beating de Blasio," Politico New York (July 24, 2015), <http://www.capitalnewyork.com/article/albany/2015/07/8572755/uber-rewrites-book-beating-de-blasio>

¹⁴⁰ Laura Nahmias and Dana Rubinstein, "De Blasio administration hails car-hail plan," Politico New York (July 22, 2015), <http://www.capitalnewyork.com/article/albany/2015/07/8572646/de-blasio-administration-hails-car-hail-plan>

¹⁴¹ Michelle Chen, "Uber Wins a Battle With New York, Now It's War," *The Nation* (July 24, 2015), <http://www.thenation.com/article/uber-wins-battle-with-new-york-now-its-war/>

¹⁴² Don Reisinger, "Uber faces limited suspension in NYC for noncompliance," CNET (Jan. 7, 2015), <http://www.cnet.com/news/uber-faces-trouble-in-nyc-for-noncompliance/>

¹⁴³ "Capital Playbook: Beating de Blasio; Bratton's end?," Politico New York (July 24, 2015), <http://www.capitalnewyork.com/article/albany/2015/07/8572774/capital-playbook-beating-de-blasio-brattons-end>

¹⁴⁴ Richard Cohen, "Uber mows down Bill de Blasio," *The Washington Post* (July 27, 2015), https://www.washingtonpost.com/opinions/ubers-bare-knuckle-battle-against-the-taxi-industry/2015/07/27/e0e7be98-3483-11e5-8e66-07b4603ec92a_story.html

¹⁴⁵ For-Hire Vehicle Transportation Study, City of New York, Office of the Mayor (January 2016) <http://www1.nyc.gov/assets/operations/downloads/pdf/For-Hire-Vehicle-Transportation-Study.pdf>

¹⁴⁶ Danielle Furfaro, "Campaign contributions behind de Blasio move to cap Uber, New Yorkers say," *New York Post* (Nov. 2, 2015), <http://nypost.com/2015/11/02/campaign-contributions-behind-de-blasio-move-to-cap-uber-new-yorkers-say/>

¹⁴⁷ Dana Rubinstein, "While battling de Blasio, Uber cultivated Cuomo," Politico New York (Nov. 25, 2015), <http://www.capitalnewyork.com/article/albany/2015/11/8584151/while-battling-de-blasio-uber-cultivated-cuomo>

Vehicles to oversee Uber and an executive order exempting transportation network companies from “any licensing requirements imposed on those businesses by any municipality or municipal agency, board or commission.”¹⁴⁸ That is, anticipating passage of regulations that the company did not want to follow, the company’s strategy focused on pre-empting the local rules.¹⁴⁹ Transportation network companies, the draft executive order asserted, “are best regulated under a comprehensive statewide framework rather than a patchwork of local laws.” The governor that same month proposed a statewide regulatory framework to allow Uber to expand in New York state.¹⁵⁰ In 2015 alone, Uber spent \$671,772 on lobbyists in Albany.¹⁵¹ While none of the company’s preferred pieces of legislation passed the state legislature,¹⁵² Uber has pledged to continue its push through 2016.¹⁵³

Philadelphia, Pa.

Uber started operating its UberBlack limousine service in Philadelphia in June 2012. This premium service, which customers use to book a pricey ride through the app with a licensed limo driver and vehicle, seems to have caused little to no public conflict between the company and the city’s transportation regulator, the Philadelphia Parking Authority (PPA). The October 2014 launch of UberX, the version of Uber’s app where ordinary drivers use their private cars to provide paid rides, however, would prove controversial at the local and state level.¹⁵⁴

When Pennsylvania’s largest taxi insurer failed,¹⁵⁵ it caused a moment of doubt about taxi insurance that Uber seized upon swiftly. Philadelphia users of the app received an email from the company stating, “as of 5:00 pm today, there is no guarantee that your taxi ride will be insured. To make sure that you can get safe and affordable rides around Philadelphia this weekend, we have decided to

¹⁴⁸ Draft executive order available at <http://www.capitalnewyork.com/sites/default/files/Rubinstein%20-%20Courtesy%20Docs%20Sent%20-%201.22.16-2.pdf>

¹⁴⁹ Dana Rubinstein, “During fight with city, Uber sought executive order from Cuomo,” Politico New York (Jan. 27, 2016),

<http://www.capitalnewyork.com/article/albany/2016/01/8589209/during-fight-city-uber-sought-executive-order-cuomo>

¹⁵⁰ Dana Rubinstein, “Cuomo calls for ‘state regulatory framework for Uber,’” Politico New York (July 23, 2015),

<http://www.capitalnewyork.com/article/albany/2015/07/8572692/cuomo-calls-state-regulatory-framework-uber>

¹⁵¹ Uber spent \$205,410 in 2014 and \$20,000 in 2013 lobbying New York State. Lobbying database available at http://www.jcope.ny.gov/view_filing.html

¹⁵² Andrew J. Hawkins, “In Albany, Uber hits a roadblock,” Crain’s New York Business (June 29, 2015), <http://www.crainsnewyork.com/article/20150629/BLOGS04/150629887/in-albany-uber-hits-a-roadblock>

¹⁵³ Joseph Spector, “Uber pledges jobs, but faces challenges,” *Democrat & Chronicle* (Oct. 20, 2015), <http://www.democratandchronicle.com/story/news/local/new-york/2015/10/20/uber-pledges-jobs-faces-challenges/74290796/>

¹⁵⁴ Victor Fiorillo, “Uber Launches UberX In Philadelphia, But PPA Says “Not So Fast”,” Philadelphia Magazine (Oct. 25, 2014), <http://www.phillymag.com/news/2014/10/25/uber-launches-uberx-philadelphia/>

¹⁵⁵ Paul Nussbaum, “Reprieve for Phila. taxi owners after insurer’s failure,” *Philadelphia Inquirer* (Oct. 26, 2014), http://articles.philly.com/2014-10-26/business/55425607_1_taxi-owners-ppa-martin-o-rourke

launch uberX [...] our low-cost option, with prices at least 20% cheaper than a taxi.”¹⁵⁶ The PPA’s response was just as swift; during Uber’s first weekend operating the ride-hailing service, the agency impounded six Uber-affiliated cars and fined each driver \$1,000¹⁵⁷ for operating an unlicensed service. It was not a difficult operation — PPA enforcement officers used Uber’s app to hail a ride, and the drivers came to them.¹⁵⁸ “The first time I heard it was illegal was right now when I get busted for driving, nobody told me it was illegal before this,” said one driver caught in the PPA sting operation.¹⁵⁹ In a press release, Uber insisted its rides were safe and said the operation demonstrated that the PPA “cares nothing about what’s best for Philadelphia and instead has chosen to put special interests ahead of consumer interests.” Uber pledged to cover the drivers’ legal costs.¹⁶⁰

Meanwhile, on the same day that Uber launched in Philadelphia, an Uber representative was seeking to have Pennsylvania’s Public Utility Commission (PUC)¹⁶¹ grant Uber emergency temporary authority to operate in Philadelphia. The filing reads that Uber has “no intention to launch service in the Counties of Bucks, Chester, Delaware, Montgomery and Philadelphia, Pennsylvania without authority from the Commission” — an apparent inconsistency with the fact that the ride-hailing service had been available for months in the suburban counties surrounding Philadelphia.¹⁶² Why would Uber prefer the PUC to the PPA? The most obvious reason was that the PUC lacked the authority to impound vehicles;¹⁶³ another was that, as a statewide regulator, Uber could ask the agency to preempt Philadelphia’s local rules. PPA executive director Vince Fenerty slammed Uber’s actions, saying it “raises serious credibility issues about whether the public or any regulating agency, or any legislative body can believe anything Uber may say in the future.”¹⁶⁴

¹⁵⁶ Victor Fiorillo, “Uber Launches UberX In Philadelphia, But PPA Says “Not So Fast”,” *Philadelphia Magazine* (Oct. 25, 2014), <http://www.phillymag.com/news/2014/10/25/uber-launches-uberx-philadelphia/>

¹⁵⁷ Jonathan Berr, “Philadelphia is Uber’s newest battleground,” *CBS News* (Oct. 28, 2014), <http://www.cbsnews.com/news/philadelphia-is-the-newest-battleground-for-uber/>

¹⁵⁸ David Murphy, “Philadelphia Impounds 5 UberX Drivers on Service’s (Abrupt) Launch Weekend,” *PC Magazine* (Oct. 26, 2014), <http://www.pcmag.com/article2/0,2817,2471008,00.asp>

¹⁵⁹ “Parking authority threatens to shut down Uber service in Philadelphia,” *ABC News* (Oct. 26, 2014), <http://6abc.com/news/ppa-threatens-to-shut-down-uber-service-in-philly/366050/>

¹⁶⁰ David Murphy, “Philadelphia Impounds 5 UberX Drivers on Service’s (Abrupt) Launch Weekend,” *PC Magazine* (Oct. 26, 2014), <http://www.pcmag.com/article2/0,2817,2471008,00.asp>

¹⁶¹ Paul Nussbaum, “Uber told the state it wouldn’t operate, then did,” *Philadelphia Inquirer* (Nov. 10, 2014), http://articles.philly.com/2014-11-10/business/56395072_1_uber-spokesman-taylor-bennett-uberx-emergency-temporary-authority

¹⁶² *Ibid*

¹⁶³ Kim Lyons and Paul Nussbaum, “Uber battle heats up in Philadelphia,” *Pittsburgh Post-Gazette* (Oct. 28, 2014), <http://www.post-gazette.com/business/2014/10/28/Uber-battle-heats-up-in-Philadelphia/stories/201410270151>

¹⁶⁴ Paul Nussbaum, “Uber told the state it wouldn’t operate, then did,” *Philadelphia Inquirer* (Nov. 10, 2014), http://articles.philly.com/2014-11-10/business/56395072_1_uber-spokesman-taylor-bennett-uberx-emergency-temporary-authority

After the PPA's high-profile crackdown, Philadelphia Mayor Michael Nutter expressed support for the company.¹⁶⁵ However, unlike New York City's Taxi and Limousine Commission, the PPA does not answer to city government. Despite having Philadelphia as its sole jurisdiction, the PPA is overseen by a board that is appointed by, and answers to, state elected officials.¹⁶⁶ As the number of impoundments climbed to 11, the city police warned that drivers of an "illegal taxi" such as Uber could face arrest.¹⁶⁷

Nonetheless, Uber rapidly scaled up operations. Uber celebrated the anniversary of operating in Philadelphia with claims that it had recruited 12,000 drivers and provided rides to 700,000 people in the city over the past year.¹⁶⁸ According to the PPA, the company succeeded in evading authorities by adapted its app to block ride requests from IP addresses and individuals the company identified with the regulator.¹⁶⁹ While the PUC eventually agreed to a two-year experimental license for Uber to operate everywhere in Pennsylvania except Philadelphia,¹⁷⁰ the conflict with the PPA continued. In late 2015, the agency filed seeking \$300,000 in damages.¹⁷¹

Because of short staffing at the PPA, the regulator has encouraged taxi drivers to be on the lookout and share with the PPA the license-plate numbers of Uber vehicles. And though both the mayor and soon the city council¹⁷² were now expressing support for the company, the PPA battle continued, albeit in a manner that ceased to grab headlines. Because of the lack of enforcement, the fines and impoundments, according to journalist Jim Saksa's calculations,¹⁷³ could easily be absorbed by the company as a mere cost of doing business. Assuming that Uber was continuing to pay its drivers' fines, enforcement would have to escalate ten times, from roughly 10 cars per month to 99 cars per

¹⁶⁵ Chris Morran, "While City Arrests Uber Drivers, Philly Mayor Comes Out In Support Of Service," *Consumerist* (Oct. 27, 2014), <https://consumerist.com/2014/10/27/while-city-arrests-uber-driver-philly-mayor-comes-out-in-support-of-service/>

¹⁶⁶ Patrick Kerkstra, "'Running amok' at the PPA The agency has become a patronage machine, pinching drivers for \$192 million a year while giving only a pittance to the city's general fund.," *Philadelphia Inquirer* (Oct. 28, 2007), http://articles.philly.com/2007-10-28/news/25233438_1_philadelphia-parking-authority-general-fund-authority-executives

¹⁶⁷ Paul Nussbaum, "Phila. police could start arresting UberX drivers," *Philadelphia Inquirer* (Nov. 8, 2014), http://articles.philly.com/2014-11-08/news/56394999_1_illegal-taxi-operation-limousine-division-police-officers#SrveAGwb36OQdlmK.01

¹⁶⁸ Jason Laughlin, "UberX marks a year operating illegally in Philadelphia," *Philadelphia Inquirer* (Oct. 25, 2015), http://articles.philly.com/2015-10-25/business/67706328_1_uberx-and-lyft-drivers-uberblack-ubersuv

¹⁶⁹ *Ibid*

¹⁷⁰ Kim Lyons, "PUC finalizes Uber's two-year experimental license," *Pittsburgh Post-Gazette* (Jan. 29, 2015), <http://www.post-gazette.com/news/transportation/2015/01/29/Pennsylvania-PUC-finalizes-ride-share-firm-Uber-s-two-year-experimental-license/stories/201501290285>

¹⁷¹ E. Tammy Kim, "Philadelphia tries to put the brakes on Uber," *Al Jazeera America* (Sept. 2, 2015), <http://america.aljazeera.com/articles/2015/9/2/philadelphia-sues-uber.html>

¹⁷² Paul Nussbaum, "Council: We want Uber and Lyft, too," *Philadelphia Inquirer* (Jan. 29, 2015), http://www.philly.com/philly/business/transportation/20150130_Council_We_want_Uber_and_Lyft_too.html

¹⁷³ Jim Saksa, "PPA calls enforcement against uberX and Lyft too costly to increase, despite hefty fines," *PlanPhilly* (May 7, 2015), <http://planphilly.com/articles/2015/05/07/ppa-calls-enforcement-against-uberx-and-lyft-too-costly-to-increase-despite-hefty-fines>

month, to reach a point where the cost of fines would begin to diminish Uber's profits. But the cost of enforcement, according to the PPA, was too high for such growth to be possible¹⁷⁴ — presumably even after statewide PUC rules began to require all Uber cars to display a sticker showing their corporate affiliation.¹⁷⁵

While evading PPA authorities and attempting to secure approval to operate statewide with an exemption from PPA oversight, Uber engaged in a series of publicity stunts. In the fall of 2015, Uber delivered puppies,¹⁷⁶ kittens¹⁷⁷ and flu shots¹⁷⁸ to local offices and free coffee to college students on finals week.¹⁷⁹ Nevertheless, the company's presence hardly remained untarnished amid reports of declining quality¹⁸⁰ and rape allegations against a driver.¹⁸¹ By the end of the year, Uber was running a high profile driver recruitment ad campaign on the sides of Philadelphia buses despite the business' questionable legality.¹⁸²

Meanwhile, Uber's presence in Pennsylvania's state capitol, Harrisburg, was rapidly increasing. In 2012,¹⁸³ Uber spent \$59,860 on two Harrisburg lobbyists and lobbying firms. In 2014, the company's spending tripled to \$189,384 on nine lobbyists and lobbying firms; in 2015, Uber's lobbying jumped nearly 60 percent to \$301,147 — a sum that paid for 16 lobbyists and lobbying firms that year.¹⁸⁴

During this time, state lawmakers were pushing competing versions of legislation for implementing statewide transportation network company legislation. In 2014, two bills were introduced in Pennsylvania's state House, one that would carve out Philadelphia, and that one would not.¹⁸⁵ The carve-out was preferred by Philadelphia's taxi industry and opposed by Uber. Similarly, competing

¹⁷⁴ Ibid

¹⁷⁵ Victor Fiorillo, "Uber Helping PPA Bust UberX Drivers," Philadelphia Magazine (March 2, 2015), <http://www.phillymag.com/news/2015/03/02/uberx-legal-philadelphia-ppa/>

¹⁷⁶ Layla A. Jones, "Uber delivering puppies to Philly offices today," Philadelphia Inquirer (Aug. 27, 2015), <http://www.philly.com/philly/blogs/phillypets/Uber-delivering-puppies-to-Philly-offices-today.html>

¹⁷⁷ Tim Reardon, "Uber will deliver kittens to your office in honor of National Cat Day," Philadelphia Inquirer (Oct. 28, 2015), http://www.philly.com/philly/blogs/things_to_do/Uber-will-deliver-kittens-to-your-office-in-honor-of-National-Cat-Day-.html

¹⁷⁸ "Uber Offers Flu Shots, Health Packages In Philly Today," CBS News, (Nov. 19, 2015), <http://philadelphia.cbslocal.com/2015/11/19/uber-offers-flu-shots-health-packages-in-philly-today/>

¹⁷⁹ Sharon Lurye, "Uber giving free coffee to college students for finals week," Philly Voice (Dec. 8, 2015), <http://www.phillyvoice.com/uber-giving-free-coffee-college-students-finals-week/>

¹⁸⁰ Victor Fiorillo, "UberX Is Now As Bad As Philly Cabs," Philadelphia Magazine (Aug. 6, 2015), <http://www.phillymag.com/news/2015/08/06/uberx-philadelphia-cabs/>

¹⁸¹ Laura McCrystal, "Uber driver accused of rape loses bail bid," Philadelphia Inquirer (Aug. 14, 2015), http://articles.philly.com/2015-08-14/news/65524365_1_uber-officials-uber-driver-uber-app

¹⁸² Ronald Blount, "Driving force behind bill: Uber," Philadelphia Inquirer (Dec. 17, 2015), http://articles.philly.com/2015-12-17/news/69094444_1_uberx-drivers-cab-drivers-out-uber

¹⁸³ Uber has reported no Pennsylvania state lobbying spending prior to July 2012. All Pennsylvania lobbying records via <http://www.dos.pa.gov/OtherServices/LobbyingDisclosure/>

¹⁸⁴ Additionally, in 2013 Uber spent \$129,218 on two lobbyists and lobbying firms.

¹⁸⁵ House Bill 2468, Pennsylvania General Assembly (2013-2014) <http://www.legis.state.pa.us/cfdocs/billinfo/BillInfo.cfm?syear=2013&sind=0&body=H&type=B&bn=2468>

versions of the legislation were introduced in the state Senate. One bill author, Sen. Wayne Fontana, a western Pennsylvania Democrat, complained that pressure from Uber lobbyists was giving momentum to a competing bill that was written by the Uber lobbyists and introduced by Sen. Camera Bartolotta, a Republican who represents a rural western Pennsylvania district¹⁸⁶ (both Fontana and Bartolotta's districts are located about 300 miles west of Philadelphia). Uber publicly campaigned for the Bartolotta bill, SB 984,¹⁸⁷ with appeals to app users asking them to sign a petition for state legislators¹⁸⁸ to pass legislation allowing Uber "to operate permanently in Philadelphia, Pittsburgh, Harrisburg, State College, the Lehigh Valley, the Wyoming Valley, Reading, Erie, York, Lancaster, and everywhere in between."¹⁸⁹ PPA's Vince Fenerty, who had overseen the sting operations and impoundments, also expressed support for the legislative effort.¹⁹⁰ Taxi groups strongly criticized the bill. Roy Blount, president of the Taxi Workers Alliance of Pennsylvania, wrote in a *Philadelphia Daily News* opinion article¹⁹¹ that:

According to the bill, UberX drivers are exempt from servicing people with disabilities. The bill also allows UberX vehicles to be up to 10 years old while accumulating over 350,000 miles. UberX drivers only need their licenses to be checked once every three years, and there would be no regulation on who can inspect UberX vehicles. UberX vehicles will carry minimal liability insurance, as drivers will be covered for \$5,000 and passengers for \$25,000. The bill also allows UberX vehicles from other states to operate on our streets. And finally, and perhaps most egregiously, there would be no enforcement. Both the Public Utility Commission and PPA must get permission from Uber before they can impound a vehicle or place a driver out of service.

The bill passed the Senate by a vote of 48-2 but stalled after changes in the House version re-inserted the Philadelphia carve-out.¹⁹² Notably, the amended version of the bill¹⁹³ includes

¹⁸⁶ Kim Lyons, "Tussle over direction of Pa. ride share legislation," *Pittsburgh Post-Gazette* (April 26, 2015), <http://www.post-gazette.com/business/pittsburgh-company-news/2015/04/26/Uber-lobbyists-may-be-roadblock-to-ride-share-legislation-in-Pa/stories/201504260061>

¹⁸⁷ Senate Bill 984, Pennsylvania General Assembly (2015-2016) <http://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=HTM&sessYr=2015&sessInd=0&billBody=S&billTyp=B&billNbr=0984&pn=1220>

¹⁸⁸ Christian Alexandersen, "Uber support: Ride-hailing company seeks petition signatures, lawmakers' votes for bill," PennLive (Oct 15, 2015), http://www.pennlive.com/midstate/index.ssf/2015/10/uber_seeks_support_from_pennsy.html

¹⁸⁹ Uber's Pennsylvania petition is available at <http://petition.uber.org/pennsylvania/>

¹⁹⁰ Melissa Daniels, "Pennsylvania senator's statewide solution to regulate taxi, ride services gains steam," *Pittsburgh Tribune Review* (Oct 8, 2015), <http://triblive.com/state/pennsylvania/9226803-74/uber-philadelphia-authority>

¹⁹¹ Ronald Blount, "Driving force behind bill: Uber," *Philadelphia Inquirer* (Dec. 17, 2015), http://articles.philly.com/2015-12-17/news/69094444_1_uberx-drivers-cab-drivers-out-uber

¹⁹² Dan Norton, "New Philadelphia coalition aims at advancing ridesharing agenda," *Philadelphia Business Journal* (March 9, 2016), <http://www.bizjournals.com/philadelphia/news/2016/03/09/driving-philly-forward-taxi-urber-ppa-ridesharing.html>

¹⁹³ (Amended) Senate Bill 984, Pennsylvania General Assembly (2015-2016) <http://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=HTM&sessYr=2015&sessInd=0&billBody=S&billTyp=B&billNbr=0984&pn=1440>

provisions prohibiting discrimination against disabled riders that did not appear in the original version.

While a new coalition has formed to continue to push for the bill¹⁹⁴ and Philadelphia Mayor Jim Kenney issued a statement with PPA's Fenerty supporting transportation network company reforms that respect disability rights,¹⁹⁵ Uber's history with following legal requirements to accommodate disabled Americans is spotty.¹⁹⁶ According to the company's logic, because the drivers are independent contractors, not Uber employees, the Americans with Disabilities Act does not apply. However, the company has made an effort to accommodate Philadelphia riders who require wheelchair-accessible vehicles.¹⁹⁷ The issue is complicated in Philadelphia by new accessibility requirements for taxis that regulators were instituting just as Uber appeared on the scene. That progress has slowed, say disability rights advocates, in part because of the damage transportation network companies have done to Philadelphia's taxi market and the lack of rules for the still-technically-illegal industry. Now disability rights advocates have joined taxi groups to call for regulations that apply equally across the transportation sector.¹⁹⁸

In January 2016, the battle between Uber and the PPA reached a new level of acrimony when the *Philadelphia Daily News* acquired emails showing that regulator staff, including PPA executive director Vince Fenerty, coordinated state lobbying efforts with taxi medallion owners in order to sustain the Philadelphia carve-out.¹⁹⁹ Of the PPA's lobbying efforts, the chief counsel of Pennsylvania's Senate Majority Leader said, "if [the PPA] got their version, it basically would prevent Uber from being able to operate in Philadelphia, which seemed to be their ultimate goal" — a familiar argument from Uber allies when facing regulations the company refuses to follow. Responding to the email news, Uber's Pennsylvania general manager blasted the PPA as "unelected, unaccountable, and [...] untrustworthy" and the company held a news conference where drivers shared their stories of being caught in PPA sting operations.²⁰⁰

¹⁹⁴ Dan Norton, "New Philadelphia coalition aims at advancing ridesharing agenda," *Philadelphia Business Journal* (March 9, 2016), <http://www.bizjournals.com/philadelphia/news/2016/03/09/driving-philly-forward-taxi-urber-ppa-ridesharing.html>

¹⁹⁵ Press Release, PPA and City Release Joint Statement on Ridesharing Services, Office of the Mayor of Philadelphia (March 9, 2016) <https://alpha.phila.gov/press-releases/mayor/ppa-and-city-release-joint-statement-on-ridesharing-services/>

¹⁹⁶ Nina Stochlic, "Uber: Disability Laws Don't Apply to Us," *The Daily Beast*, (May 21, 2015), <http://www.thedailybeast.com/articles/2015/05/21/uber-disability-laws-don-t-apply-to-us.html>

¹⁹⁷ Paul Nussbaum, "Uber to offer wheelchair-accessible car service," *Philadelphia Inquirer* (Sept. 24, 2014), http://articles.philly.com/2014-09-24/business/54244415_1_puc-wheelchair-accessible-vehicles-brokerage-license

¹⁹⁸ Jim Saksa, "Unlikely alliance unites against Uber and Lyft: Disability advocates, cabbies, limos, and PPA," *PlanPhilly* (Feb. 25, 2016), <http://planphilly.com/articles/2016/02/25/unlikely-alliance-unites-against-uber-and-lyft-disability-advocates-cabbies-limos-and-ppa>

¹⁹⁹ William Bender, "Emails: Parking Authority worked with taxis to stop Uber," *Philadelphia Inquirer* (Jan. 29, 2016), http://articles.philly.com/2016-01-29/news/70154082_1_uberx-ppa-taxi-industry

²⁰⁰ Jason Laughlin, "Uber: Philadelphia Parking Authority is untrustworthy," *Philadelphia Inquirer* (Jan. 31, 2016), http://articles.philly.com/2016-01-31/news/70203814_1_uber-and-lyft-uberx-uber-drivers

Activists have subsequently called on Mayor Kenney to step in to help broker a compromise between Uber, the PPA, the taxi industry and disability rights advocates. The mayor declined.²⁰¹ Negotiations between city officials and Uber have continued. The state PUC, meanwhile, on April 22, 2016, levied a fine of \$11,364,736 against the company for operating for six months without the agency's approval in 2014. Uber has vowed to appeal.²⁰² Pennsylvania Governor Tom Wolfe, along with Pittsburgh Mayor Bill Peduto and Allegheny County Executive Rich Fitzgerald, issued a joint letter criticizing the PUC for the high fine against Uber:

Uber [...] is investing hundreds of millions of dollars in the Commonwealth of Pennsylvania and is poised to invest millions more. However, all this could be lost if we send the message that Pennsylvania is not a welcoming place for 21st century businesses and other job-creators looking to make our state a home. [...] [The PUC's] substantial fine sends the wrong message about the business climate for innovation in the Commonwealth.²⁰³

In May 2016, a version of legislation to allow transportation network companies to operate throughout Pennsylvania and maintain the PPA's authority over them in Philadelphia passed the state House Committee on Consumer Affairs. Both Uber and Lyft expressed "concerns" with the legislation and signaled they would continue to try to shape the bill as it moved to the full state House floor.²⁰⁴

²⁰¹ Jason Laughlin, "Kenney passes on request to wade into taxi, Uber fracas," *Philadelphia Inquirer* (March 4, 2016), <http://www.philly.com/philly/blogs/in-transit/Kenney-passes-on-request-to-wade-into-taxi-and-Uber-fracas.html>

²⁰² Jason Laughlin, "Uber, negotiating with city, 'shocked' by PUC fine," *Philadelphia Inquirer* (April 22, 2016), http://www.philly.com/philly/news/20160422_Uber_negotiating_with_city_shocked_by_PUC_fine.html

²⁰³ Letter from the Pennsylvania Governor's Office to the PUC (May 3, 2016), http://apps.pittsburghpa.gov/mayorpeduto/Uber_Letter_Final.pdf

²⁰⁴ Allison Burdo, "Pa. bill brings Uber, Lyft step closer to legal operations in Philly," *Philadelphia Business Journal* (May 4, 2016), <http://www.bizjournals.com/philadelphia/news/2016/05/04/harrisburg-bill-uber-rideshare-committee-phily-tax.html>

San Francisco, Calif.

Uber's 2010 launch in its home town of San Francisco was no less contentious than elsewhere. In its original manifestation, "UberCab" was exclusively what would become UberBlack, the high-end service that used a smartphone app to schedule a limousine or "black car." In October 2010, the San Francisco Metro Transit Authority (MTA) and the California Public Utilities Commission (CPUC) ordered the company to cease and desist for operating an illegal taxi company. Potential penalties included a \$5,000 fine for every illegal ride and up to 90 days in jail for every day the company continued to operate past the cease and desist orders.²⁰⁵ Early UberCab investor Chris Sacca tweeted²⁰⁶ a response that Silicon Valley technology publication TechCrunch took as a "vote of confidence" for the newly embattled startup, saying that the day the company received the cease and desist order "we knew we were in."²⁰⁷ Another TechCrunch writer mused that the order was "probably the *best* thing that could ever happen" to UberCab and that it represented "a huge validation" for the company because the authorities "would simply not care if the company wasn't on to something."²⁰⁸ In response to the order, Uber CEO Travis Kalanick told the *Wall Street Journal* that he "verified with his lawyers that what Uber was doing was indeed legal, then the company took its case to the public through Twitter and email." "Did you ever cease?" The *Journal* asked. "Did you ever desist?" "No," Kalanick replied.²⁰⁹ The name UberCab was simply changed to Uber, and tens of millions of investor dollars poured into the startup's coffers.²¹⁰

In 2012, the CPUC again attempted to enforce licensing requirements that Uber and other transportation network companies were allegedly flouting; Uber, as well as Lyft and SideCar, were fined \$20,000 each.²¹¹ The *San Francisco Chronicle* editorialized against the fines as "not in the public's interest"²¹² and the CPUC initiated a rulemaking effort to enable the new companies to operate within the law. Transportation network companies lobbied aggressively to shape the new rules, deploying a former CPUC administrative law judge and former San Francisco mayor and state Assembly Speaker Willie Brown to advocate on their behalf.²¹³ In response to the companies'

²⁰⁵ Lora Kolodny, "UberCab Ordered to Cease And Desist," TechCrunch (Oct. 24, 2010),

<http://techcrunch.com/2010/10/24/ubercab-ordered-to-cess-and-desist/>

²⁰⁶ MG Siegler, "UberCab Cease & Desist Means One Thing: They're Onto Something," TechCrunch (Oct. 24, 2010), <http://techcrunch.com/2010/10/24/ubercab/>

²⁰⁷ Lora Kolodny, "Ubercab, Now Just Uber, Shares Cease And Desist Orders," TechCrunch (Oct. 25, 2010), <http://techcrunch.com/2010/10/25/ubercab-now-just-uber-shares-cess-and-desist-orders/>

²⁰⁸ MG Siegler, "UberCab Cease & Desist Means One Thing: They're Onto Something," TechCrunch (Oct. 24, 2010), <http://techcrunch.com/2010/10/24/ubercab/>

²⁰⁹ Andy Kessler, "Travis Kalanick: The Transportation Trustbuster," *The Wall Street Journal* (Jan. 25, 2013), <http://www.wsj.com/articles/SB10001424127887324235104578244231122376480>

²¹⁰ Kara Swisher, "Man and Uber Man," *Vanity Fair* (Nov. 5, 2015),

<http://www.vanityfair.com/news/2014/12/uber-travis-kalanick-controversy>

²¹¹ Benny Evangelista, "PUC fines 3 app-hailing taxi startups," *San Francisco Chronicle* (Nov. 14, 2012), <http://www.sfgate.com/business/article/PUC-fines-3-app-hailing-taxi-startups-4037863.php>

²¹² "Editorial: Car-share firms hit needless roadblock," *San Francisco Chronicle* (Nov. 16, 2012), <http://www.sfchronicle.com/opinion/editorials/article/Car-share-firms-hit-needless-roadblock-4045208.php>

²¹³ Benny Evangelista, "Ride-share services run into fines, suit," *San Francisco Chronicle* (Nov. 18, 2012), <http://www.sfchronicle.com/news/article/Ride-share-services-run-into-fines-suit-4048980.php>

insistence that they were already doing everything they needed to do to follow the law, Frank Lindh, general council of the CPUC, said, "They say lots of things, they assert lots of things, they say, 'Don't worry about this, we got this covered' [...] We're the PUC. We can't just look the other way. We can't just take their word." SideCar, meanwhile, had gathered more than 5,000 signatures to advance the corporate cause via a Change.org petition.²¹⁴

The CPUC reached temporary settlements with the fined transportation network companies, and when the CPUC finally in 2013 released its new rules for them, the *San Francisco Chronicle* observed that they mostly were rules the companies already had voluntarily chosen to follow.²¹⁵ Despite the San Francisco MTA's efforts to toughen the rules,²¹⁶ the CPUC adopted rules that were characterized as "a big win"²¹⁷ for the companies — and which the San Francisco Cab Drivers Association decried as "disturbing" because it would "create a new class of for-hire transportation service which would not have the oversight of local regulatory bodies while unfairly competing with existing locally regulated taxi services." The taxi group also noted that the CPUC has only five transportation enforcement officers whose responsibilities are statewide — hardly enough to meaningfully police this growing industry across the entire state of California²¹⁸

After an Uber driver struck and killed Sophia Liu, a six-year-old girl on December 31, 2013, controversy emerged over whether Uber drivers had adequate insurance.²¹⁹ Uber denied responsibility, noting that the driver was not actively transporting any passengers hailed through the Uber app at the time of the incident.²²⁰ The driver told police he was waiting for a fare when his car struck the girl.²²¹ The San Francisco Cab Drivers Association offered condolences to the girl's family on its website and told *The New York Times*, "Uber may be the next Amazon, but Amazon doesn't have the same potential capability to leave a trail of bodies in the street."²²² The incident sparked new pressure to impose stricter insurance requirements on Uber and similar companies; Chris Dolan, the attorney for Sophia Liu's family was among the most outspoken critics of the current CPUC standards: "The rules put forth by the CPUC are inadequate," he said. "There is an

²¹⁴ Ibid

²¹⁵ Benny Evangelista and Caleb Garling, "PUC outlines rules for ride-sharing firms," *San Francisco Chronicle* (July 30, 2013) <http://www.sfchronicle.com/bayarea/article/PUC-outlines-rules-for-ride-sharing-firms-4697150.php>

²¹⁶ Neal Riley, "MTA wants tougher proposed ride-share regulations," SFGate (Aug. 21, 2013), <http://blog.sfgate.com/cityinsider/2013/08/21/mta-wants-tougher-proposed-ride-share-regulations/>

²¹⁷ Anthony Ha, "California Regulator Passes First Ridesharing Rules, A Big Win For Lyft, SideCar, And Uber," TechCrunch (Sept. 19, 2013), <http://techcrunch.com/2013/09/19/cpuc-ridesharing-regulations/>

²¹⁸ Ibid

²¹⁹ Kale Williams and Kurtis Alexander, "Uber sued over girl's death in S.F.," SFGate (Jan. 28, 2014), <http://www.sfgate.com/bayarea/article/Uber-sued-over-girl-s-death-in-S-F-5178921.php>

²²⁰ Kate Conger, "Uber files defense in Sofia Liu wrongful death lawsuit," *San Francisco Examiner* (May 6, 2014), <http://archives.sfexaminer.com/sanfrancisco/uber-files-defense-in-sofia-liu-wrongful-death-lawsuit/Content?oid=2790574>

²²¹ Ibid

²²² David Streitfeld, "Rough Patch for Uber Service's Challenge to Taxis," *The New York Times* (Jan. 26, 2014), <http://www.nytimes.com/2014/01/27/technology/rough-patch-for-uber-services-challenge-to-taxis.html>

insurance gap.”²²³ Responding to public outcry, both the CPUC²²⁴ and state lawmakers proposed new insurance requirements.

State Assemblywoman Susan Bonilla was the chief sponsor of AB 2293, a bill to strengthen transportation network company insurance requirements, in particular by requiring \$750,000 worth of coverage from the moment the app is turned on.²²⁵ (By comparison, the Uber driver who struck Sophia Liu had insurance which provided for a maximum payout of only \$15,000 per person and a maximum of \$30,000²²⁶). The legislation gained momentum, and in August 2014 was the subject of unusually heated debate. Uber and its transportation network company allies fought back hard. They criticized lawmakers with online petitions. They aired radio ads against the bill.²²⁷ An Internet Association lobbyist said that, because of the insurance legislation, “The future of ride-sharing in California is now truly at stake.”²²⁸ The San Francisco Business Times reports the pushback also included “a fleet of lobbyists, hyperbolic warnings about ceasing doing business in the state, hearings clogged with hundreds of misinformed drivers and Capitol phone lines jammed with calls from the public generated by the companies.”²²⁹

Assemblywoman Bonilla found herself on the political defensive. Uber sent attack ad mail to voters in a district where she was expected to soon seek election for the state Senate. “Anti-tech. Anti-consumer choice. Pro-special interests. Susan Bonilla. AB 2293 is backed by the insurance industry and trial lawyers to make more profits at the expense of drivers and riders who use ride-sharing apps like Uber. It’s time to stand with consumers and entrepreneurs — NOT special interests,” said one. Another piece of attack mail said, “Assemblymember Susan Bonilla is leaving consumers and

²²³ Carolyn Said, “S.F. considers regulating private ride services,” *San Francisco Chronicle* (March 6, 2014), <http://www.sfchronicle.com/business/article/S-F-considers-regulating-private-ride-services-5295496.php>

²²⁴ Carolyn Said, “Calif. PUC proposes expanded insurance for ride services,” *San Francisco Chronicle* (March 26, 2014), <http://www.sfchronicle.com/business/article/Calif-PUC-proposes-expanded-insurance-for-ride-5352041.php>

²²⁵ Josh Richman, “Uber, Lyft, Sidecar: New insurance requirements approved by California Legislature,” *San Jose Mercury News* (Aug. 28, 2014), http://www.mercurynews.com/california/ci_26428057/california-senate-approves-new-insurance-requirements-uber-lyft

²²⁶ Patrick Hoge, “Uber, Lyft hit by proposed California insurance requirements,” *San Francisco Business Times* (June 10, 2014), <http://www.bizjournals.com/sanfrancisco/blog/2014/06/uber-lyft-insurance.html>

²²⁷ Josh Richman, “Uber, Lyft, Sidecar: New insurance requirements approved by California Legislature,” *San Jose Mercury News* (Aug. 28, 2014), http://www.mercurynews.com/california/ci_26428057/california-senate-approves-new-insurance-requirements-uber-lyft

²²⁸ “‘The future of ride-sharing in California is now truly at stake.’ Really?,” *Seattle Post-Intelligencer* (Aug. 20, 2014), <http://blog.seattlepi.com/techchron/2014/08/20/the-future-of-ride-sharing-in-california-is-now-truly-at-stake-really/>

²²⁹ Patrick Hoge, “Uber plays hardball but fails to win the game,” *San Francisco Business Times* (Sept. 3, 2014), <http://www.bizjournals.com/sanfrancisco/blog/techflash/2014/09/uber-plays-hardball-but-fails-to-win-the-game.html>

entrepreneurs on the curb while she takes a ride with her special interest friends.”²³⁰ Bonilla would lose her election bid.²³¹

Ultimately, the version of the bill that passed and Governor Jerry Brown signed²³² dropped the \$750,000 insurance coverage requirement down to \$50,000 for the death or injury of an individual and additional coverage of no greater than \$200,000 for a single incident.²³³ Uber supported this final version; a company spokesperson said, “Common sense has prevailed, and the winners are Californians.”

Uber has maintained a large lobbying presence in Sacramento — where *The Los Angeles Times* noted the company spends more on lobbying than Wal-Mart, Bank of America or Wells Fargo.²³⁴ In 2013, Uber spent \$122,303 lobbying the capital of its home state. In 2014, the year of the legislative debate surrounding AB 2293, Uber spent a whopping \$603,037 (\$474,182 of it in the quarter during that particular debate). In 2015, the company spent \$327,854.²³⁵ Together with Lyft, the companies spent more than \$900,000 in the 2015-2016 state legislative session.²³⁶ State bills to require drivers to be drug tested²³⁷ and fingerprinted,²³⁸ and to strengthen rider privacy protections²³⁹ have been defeated.

On another front, the district attorneys of San Francisco and Los Angeles in September 2014 together filed a consumer protection lawsuit against Uber for false advertising related to the company’s safety claims.²⁴⁰ The lawsuit contended that Uber’s advertising claims (“The Safest Rides

²³⁰ Ibid

²³¹ Alison Vekshin, “Uber Unleashes Lobbyists in California to Reshape Driver Rules,” *Bloomberg News* (Aug. 24, 2015) <http://www.bloomberg.com/politics/articles/2015-08-24/uber-unleashes-lobbyists-in-california-to-reshape-driver-rules>

²³² Josh Richman, Uber, Lyft, Sidecar: New insurance requirements approved by California Legislature, *San Jose Mercury News* (Aug. 28, 2014) http://www.mercurynews.com/california/ci_26428057/california-senate-approves-new-insurance-requirements-uber-lyft

²³³ Ibid

²³⁴ Chris Kirkham and Tracey Lien, “Facing regulatory roadblocks, Uber ramps up its lobbying in California,” *Los Angeles Times* (July 26 2015), <http://www.latimes.com/business/la-fi-uber-california-20150726-story.html>

²³⁵ California lobbying database available at <http://cal-access.sos.ca.gov/Lobbying/Employers/Detail.aspx?id=1354296&session=2015>

²³⁶ Liam Dillon, “Uber and Lyft are winning at the state Capitol — here’s why,” *Los Angeles Times* (May 7, 2016), <http://www.latimes.com/politics/la-pol-sac-why-uber-is-winning-in-california-20160507-snap.htmlstory.html>

²³⁷ Jeremy B. White, “Bills on sick days, Uber drug tests, Prop 47, independent police prosecutor die in Assembly,” *Sacramento Bee* (May 28, 2015), <http://www.sacbee.com/news/politics-government/capitol-alert/article22542120.html>

²³⁸ Allen Young, “Lawmakers revisit background checks for Uber, Lyft drivers,” *Sacramento Business Journal* (Sept. 9, 2015), <http://www.bizjournals.com/sacramento/news/2015/09/09/lawmakers-revisit-background-checks-for-uber-lyft.html>

²³⁹ Blog post, “AB 886’s Privacy Protections For Uber Passengers Held Up,” *Consumer Federation of California* (April 8, 2015), <https://consumercal.org/ab-886-protects-the-privacy-of-uber-passengers/>

²⁴⁰ Carolyn Said, “S.F., L.A. sue Uber ‘to protect consumers’; Lyft settles charges,” *SFGate* (Dec. 9, 2014), <http://www.sfgate.com/business/article/SF-LA-sue-Uber-saying-it-misled-consumers-Lyft-5946353.php>

on the Road,” read one ad) and statements on its website (which said Uber’s background checks “always exceed what is required of local taxi companies”) were misleading.²⁴¹ In particular, San Francisco District Attorney George Gascón took issue with the strong safety statements and Uber’s refusal to add fingerprinting to the background check process, as many taxi companies do.²⁴² Fingerprinting, he noted, is the only way to be sure that the people whose backgrounds are being checked really are the individuals they say they are. The complaint included a list of instances and offenses that may not be identified by Uber’s current background check practices. Also included was a list of twenty-five incidents in which drivers who, according to Uber’s stated standards, should have been disqualified by the background check process because of their criminal histories, but were not. “We learned of systemic failures in Uber’s background checks,” Gascon told *Forbes*.²⁴³ In Los Angeles alone, he said, “We have learned they have drivers who are convicted sex offenders, thieves, burglars, kidnappers and a convicted murder” (sic).

In April 2016, Uber settled the lawsuit by paying \$10 million and agreeing to tone down its safety rhetoric. A statement on Uber’s website reads, “[W]e need to ensure that the language used to describe safety at Uber is clear and precise. So we’ve agreed not to use terms like “*safest ride on the road*” or describe our background checks as “*the gold standard*”.”²⁴⁴ The company will have to pay an additional \$15 million if it does not continue to meet the terms of the settlement.²⁴⁵ The company admits no wrongdoing. The district attorneys lack authority²⁴⁶ to compel the company to add fingerprinting or otherwise enhance its background check practices. That power rests with the legislature, where any such proposal is expected to face fierce resistance from Uber’s lobbyists.

Seattle, Wash.

Seattle was the third region where Uber launched, after the San Francisco Bay area and New York City. While its 2011 appearance offering the luxury Uber Black service seemed to cause little

²⁴¹ *The People of the State of California vs. Uber Technologies, Inc.* Case No. CGC-14-543120, Superior Court of the State of California (Aug. 18, 2015), <https://assets.documentcloud.org/documents/2717107/Uber-Safety-Fac-2.pdf>

²⁴² Carolyn Said, “S.F., L.A. sue Uber ‘to protect consumers’; Lyft settles charges,” SFGate (Dec. 9, 2014), <http://www.sfgate.com/business/article/SF-LA-sue-Uber-saying-it-misled-consumers-Lyft-5946353.php>

²⁴³ Ellen Huet, “Uber’s Background Checks Failed To Catch A Murderer And Other Felons, Prosecutors Say,” *Forbes* (Aug. 19, 2015), <http://www.forbes.com/sites/ellenhuet/2015/08/19/uber-background-check-lawsuit-convicted-felons-prosecutors/#234470ed4c96>

²⁴⁴ Press Release, Uber, “Settlement with District Attorneys of San Francisco and Los Angeles,” (April 7, 2016), <https://newsroom.uber.com/da-settlement/>

²⁴⁵ Alex Hern, “Uber’s ‘safe ride fee’ becomes ‘booking fee’ after \$25m settlement over rider safety,” *The Guardian* (April 7, 2016), <https://www.theguardian.com/technology/2016/apr/07/uber-driver-background-check-lawsuit-passenger-safety-california>

²⁴⁶ Carolyn Said, “S.F., L.A. sue Uber ‘to protect consumers’; Lyft settles charges,” SFGate (Dec. 9, 2014), <http://www.sfgate.com/business/article/SF-LA-sue-Uber-saying-it-misled-consumers-Lyft-5946353.php>

controversy,²⁴⁷ the 2012 appearance of Lyft²⁴⁸ and subsequent UberX release in 2013 would lead to confrontations with the Seattle City Council.

At a September 2013 hearing on a transportation study²⁴⁹, Council President Sally Clark raised the possibility of temporarily halting the operations of Uber and other transportation network companies until the impacts they were having within the city could be better understood. “I think it’s either shut them down completely until we have the new regulatory framework fully ready or put in place short-term rules addressing safety and consumer protection,” Clark said.²⁵⁰ In response, the company issued a “Save UberX in Seattle”²⁵¹ missive, which accused the city council of attempting to “outlaw competition,” and an online petition.²⁵² The council would postpone consideration of how to regulate these companies.²⁵³

The city returned to the question again in February 2014. This time, Council President Clark’s proposal included a cap on the number of transportation network company drivers permitted to be active on Seattle roads at any one time (just as there is a cap on the number of taxis operating). The proposal placed no cap on the number of drivers the companies could recruit, and was presented as a compromise between council members who opposed caps and council members who wanted a firm cap on the the number of drivers who could sign up.²⁵⁴ Uber kicked off another online petition campaign²⁵⁵ and robo-called residents to campaign against the caps. The company also hired a truck to drive around the city with a billboard displaying an especially succinct version of its consumer choice messaging: “Innovation. Progress. Choice. Tell the City Council to save uberX!”²⁵⁶ Grammy Award-winning rapper Macklemore, who grew up in Seattle, joined the fray.²⁵⁷ The

²⁴⁷ Nick Eaton, “Too good for a taxi? How about taking Uber, new to Seattle,” *Seattle Post-Intelligencer* (Aug. 12, 2011), <http://blog.seattlepi.com/thebigblog/2011/08/12/too-good-for-a-taxi-how-about-taking-uber-new-to-seattle/>

²⁴⁸ Jake Ellison, “Does Seattle need another ride-share option, even with a pink mustache?,” *Seattle Post-Intelligencer* (Dec. 31, 2012), <http://blog.seattlepi.com/thebigblog/2012/12/31/does-seattle-need-another-ride-share-option-even-with-a-pink-mustache/>

²⁴⁹ Dr. James M. Cooper and Dr. Ray Mundy, *Taxi, For Hire Vehicle and Limousine Services Demand Study*, City of Seattle and King County (September 2013) <https://www.scribd.com/doc/165166563/Seattle-Taxi-Study>

²⁵⁰ Taylor Soper, “Seattle may shut down ride-sharing companies as it establishes regulations,” *Geek Wire* (Sept. 20, 2013), <http://www.geekwire.com/2013/seattle-prepares-set-regulations-california-legalizes-ridesharing-companies/>

²⁵¹ Press Release, Uber, “Save uberX in Seattle!” (Sept. 25, 2013), <https://newsroom.uber.com/us-washington/save-uberx-in-seattle/>

²⁵² Ibid

²⁵³ Taylor Soper, “Ride-sharing companies not shutting down in Seattle — for now,” *Geek Wire* (Sept. 26, 2013), <http://www.geekwire.com/2013/seattle-ridesharing/>

²⁵⁴ Erica Barnett, “Sally Clark Responds to Critics of Her Ridesharing Compromise,” *Seattle Met* (Feb. 28, 2014), <http://www.seattlemet.com/articles/2014/2/28/one-question-for-sally-clark-february-2014>

²⁵⁵ Uber’s Seattle petition available at <https://action.uber.org/seattle/>

²⁵⁶ Taylor Soper, “City of Seattle to contact Uber about ‘illegal’ marketing tactics,” *Geek Wire* (Feb. 28, 2014), <http://www.geekwire.com/2014/city-seattle-contact-uber-illegal-marketing-tactics/>

²⁵⁷ Ibid

company also bought ads in Seattle alternative newsweekly *The Stranger*, distributed flyers and magnets, and hired a public relations firm whose clients include Monsanto, Facebook and Nike.²⁵⁸

When the cap proposal passed the council transportation committee, an Uber spokesperson blasted the vote, stating:

It is extremely disappointing that the [committee] has chosen to ignore the tens of thousands of their constituents who support uberX and, instead, decided it is a good policy to protect the taxi industry and effectively shut down uberX in Seattle as we know it. [...] The Committee has sent a strong message that they support the status quo over opportunity, transportation choices and safety.²⁵⁹

The company alleged flaws with the process by which the city council considered the bill, and made its complaints known to its email subscribers. After the amended version of the bill was posted on the city website on a Friday ahead of a vote anticipated the following Monday, the company complained that the council “did not follow the spirit of its own rules mandating openness and fair notice.” Council President Clark was specifically targeted in the email, which also said, “Councilwoman Clark runs the transportation committee and was the driving force behind this legislation [...] She has been convinced by the taxi industry that protectionism is good. Call her and let her know that this legislation is unacceptable — Seattle citizens over taxi cronies! Innovation over Protectionism! Do not pass the Ridesharing Ordinance!”²⁶⁰ Over Uber CEO Kalanick warnings that Seattle’s approach would make Uber’s app “unuseable,”²⁶¹ the city council passed the ordinance.

Clark defended applying rules to Uber and similar companies in *TechCrunch*; the Clark interview²⁶² ran with a famous image of British Luddites smashing machines inside of a textile mill.

In April, the week the ordinance was supposed to go into effect, an Uber-funded referendum campaign appeared. The campaign group, “Seattle Citizens to Repeal Ordinance 124441,” received more than \$400,000 from Uber, Lyft and SideCar, and submitted the necessary number of

²⁵⁸ Matt Driscoll, “City of Seattle to contact Uber about ‘illegal’ marketing tactics,” *Seattle Weekly* (Feb. 27, 2014), <http://www.seattleweekly.com/home/951444-129/uber-goes-big-and-small-in>

²⁵⁹ “Seattle clamps down on UberX, Lyft, Sidecar,” *Seattle Post-Intelligencer* (Feb. 27, 2014), <http://blog.seattlepi.com/techchron/2014/02/27/seattle-clamps-down-on-uberx-lyft-sidecar/>

²⁶⁰ Taylor Soper, “UberX accuses Seattle City Council of ‘not following its own rules,’” *Geek Wire* (March 17, 2014), <http://www.geekwire.com/2014/uberx-lambasts-seattle-city-council-want-make-sure-viable-alternative-taxi/>

²⁶¹ Blair Hanley Frank, “Uber CEO: Seattle regulations would make our service ‘unusable,’” *Geek Wire* (March 14, 2014), <http://www.geekwire.com/2014/uber-ceo-proposed-regulations-make-ridesharing-service-unusable/>

²⁶² Gregory Ferenstein, “One Seattle Politician Explains Why She Voted To Regulate Uber,” *TechCrunch* (March 19, 2014), <http://techcrunch.com/2014/03/19/one-seattle-politician-explains-why-she-voted-to-regulate-uber/>

signatures (more than 16,510) to begin the referendum process.²⁶³ The campaign soon swelled into an \$800,000 goliath. Mayor Ed Murray, meanwhile, began negotiations with the companies to create a new version of the regulations that were more industry-friendly. While the negotiations put a hold on the ballot campaign effort, Uber's Seattle manager refused to take the threat off the table.²⁶⁴ On avoiding the referendum, Mayor Murray said, "a lot of people will spend a lot of money that could better be spent on their own businesses."²⁶⁵ That summer, the city council repealed the cap and passed more industry friendly rules.

Today, Seattle is embroiled in yet another conflict with Uber. Council Member Mike O'Brien introduced an ordinance in August 2015 that would allow transportation network company drivers to form unions for collective bargaining with the companies.²⁶⁶ Uber opposed the ordinance²⁶⁷ and Plouffe came to the city to advocate against it. Plouffe's anti-unionization pitch framed Uber as a way for people to "augment existing income, to provide a bridge when they may lose their job or get their hours cut." When asked directly how collective bargaining would hurt the company, Plouffe emphasized the importance of following the law: "federal law is pretty clear that independent contractors are not able to engage in collective bargaining." The company also started running ads on the radio and online²⁶⁸ to promote the idea that drivers are better off without the right to form a union.

In December 2015, the council unanimously passed the bill. Though asked, Uber did not offer a statement in response to the bill's passage to the *Seattle Post-Intelligencer*²⁶⁹ or *The New York Times*.²⁷⁰ Council Member Kshama Sawant hailed the legislation as "a historic step towards offering collective bargaining rights for otherwise precarious workers."²⁷¹ Mayor Ed Murray refused to sign the bill, but he did not try to veto it either. The ordinance became law without the mayor's

²⁶³ Taylor Soper, "Seattle ride-sharing regulations suspended; Mayor wants to negotiate with stakeholders," Geek Wire (April 17, 2014), <http://www.geekwire.com/2014/ride-sharing-petition-seattle/>

²⁶⁴ Bill Lucia, "Will the City Council swallow Ed Murray's ride-share plan?" Crosscut (July 12, 2014), <http://crosscut.com/2014/07/mike-obrien-ed-murray-ridesharing-lyft-uber/>

²⁶⁵ Joel Connelly "Council green lights ride share deal that lifts Lyft, Uber, Sidecar," *Seattle Post-Intelligencer* (July 14, 2014), <http://blog.seattlepi.com/seattlepolitics/2014/07/14/council-green-lights-ride-share-deal-that-lifts-lyft-uber-sidecar/>

²⁶⁶ Lydia DePillis, "Seattle might try something crazy to let Uber drivers unionize" *The Washington Post* (Aug. 31, 2015), <https://www.washingtonpost.com/news/wonk/wp/2015/08/31/seattle-might-try-something-crazy-to-let-uber-drivers-unionize/>

²⁶⁷ Daniel Beekman, "An Uber union? Seattle could clear way for ride-app drivers," *The Seattle Times* (Nov. 28, 2015), <http://www.seattletimes.com/seattle-news/politics/unionize-ride-app-drivers-seattle-in-us-spotlight/>

²⁶⁸ Video of Uber ad available at <https://www.youtube.com/watch?v=tuCWmjiPgeA>

²⁶⁹ Daniel Beekman, "City council: Uber, other drivers can unionize in Seattle," *Seattle Post-Intelligencer* (Dec. 14, 2015), <http://www.seattlepi.com/business/article/City-council-Uber-other-drivers-can-unionize-in-6697743.php>

²⁷⁰ Nick Wingfield and Mike Isaac, "Seattle Will Allow Uber and Lyft Drivers to Form Unions," *The New York Times* (Dec. 14, 2015), <http://www.nytimes.com/2015/12/15/technology/seattle-clears-the-way-for-uber-drivers-to-form-a-union.html>

²⁷¹ Press Release, Kshama Sawant, "Seattle Will Allow Uber and Lyft Drivers to Form Unions" (Dec. 14, 2015), <http://sawant.seattle.gov/union-rights-in-new-economy/>

signature; the unanimous council vote signaled there were enough council votes to override a mayoral veto.²⁷²

In March 2016, the U.S. Chamber of Commerce sued to block the ordinance from taking effect.²⁷³ When asked to comment on the lawsuit, an Uber spokesperson said, “The Chamber of Commerce’s challenge to the Seattle ordinance raises serious questions not only about whether the city has run afoul of federal laws, but also about the impact on drivers who rely on ridesharing to earn flexible income.”²⁷⁴ Uber customer service reps have been given scripts for calling drivers to discourage unionizing.²⁷⁵

Washington, D.C.

Uber launched in the nation’s capital in 2011, and D.C. Taxicab Commission Chairman Ron Linton soon said the company was “operating illegally.”²⁷⁶ At the time, Uber’s sole service in the city was UberBlack, the version of the app used to call a limousine. According to Linton, Uber’s hybrid arrangement, with limos charging by time and distance like a taxi, did not fit within the city’s existing regulatory environment — and was thus outside the law. Uber’s Washington, D.C., spokesperson insisted the service was legal: “We launched in Washington confident that we are compliant with the rules and regulations with the District [...] Prior to launching we had conversations with representatives of the [Taxicab] Commission that helped us understand the regulatory landscape and convinced us that the Uber transportation alternative was legal.”²⁷⁷

Linton continued to disagree. Soon after calling Uber’s actions illegal, the chairman coordinated a sting operation in which he himself hailed a ride using the app. When he arrived at his destination, enforcement officers issued \$1,650 in fines to the driver as local news reporters watched.²⁷⁸ “What they’re trying to do is be both a taxi and a limousine,” Linton told *The Washington Post*. “Under the way the law is written, it just can’t be done.” Uber CEO Travis Kalanick, meanwhile, insisted on the

²⁷² Biz Carson, “The Seattle City Council defied the mayor to let Uber drivers unionize, and now he won’t sign the bill,” *Seattle Post-Intelligencer* (Dec. 14, 2015), <http://www.seattlepi.com/technology/businessinsider/article/The-Seattle-City-Council-defied-the-mayor-to-let-6698555.php>

²⁷³ Rick Claypool, “City of Seattle Stands Up for Uber Drivers’ Rights, Is Sued by U.S. Chamber,” U.S. ChamberWatch blog (March 8, 2016), <http://www.chamberofcommercewatch.org/city-of-seattle-stands-up-for-uber-drivers-rights-is-sued-by-u-s-chamber/>

²⁷⁴ Taylor Soper, “U.S. Chamber of Commerce files lawsuit against City of Seattle over Uber driver union law,” Geek Wire (March 3, 2016), <http://www.geekwire.com/2016/u-s-chamber-suing-city-seattle-driver-union-law/>

²⁷⁵ Alison Griswold, “The Seattle City Council defied the mayor to let Uber drivers unionize, and now he won’t sign the bill,” Quartz (Feb. 20, 2016), <http://qz.com/619601/uber-is-using-its-us-customer-service-reps-to-deliver-its-anti-union-message/>

²⁷⁶ Benjamin R. Freed, “Uber Is Hacking Into Washington’s Taxi Industry, Linton Says,” DCist (Jan. 11, 2012), <http://dcist.com/2012/01/uber-is-hacking-into-washingtons-taxi.php>

²⁷⁷ Ibid

²⁷⁸ Benjamin R. Freed, “Linton Stings Uber After Calling Livery Service ‘Illegal,’” DCist (Jan. 13, 2012), <http://dcist.com/2012/01/linton-stings-uber-leaves-driver-ho.php>

legality of the service and asserted that the company would continue its D.C. operation.²⁷⁹ The company pledged to pay the driver's fines²⁸⁰ and Uber-friendly media started speculating that connections between Linton and Mayor Vincent Gray, who had received campaign support from the taxi industry, could explain the aggressive pushback.²⁸¹

In an opinion article published weeks after the sting by *The Washington Post*, Linton continued to argue that Uber's operations were against the law while at the same time projecting agnosticism about the law's merits.²⁸² He wrote:

The newly arrived Uber car service is not being operated properly, in conformance with the law. And that's not because of any regulation imposed by the D.C. Taxicab Commission but because of a law passed by the D.C. Council. [...] Whether the law is good or bad public policy is a matter for the council to decide. But the taxi commission has to operate in real time, which means regulating and enforcing the law as it is written. [...]

Frustration with the condition of the D.C. taxicab industry is understandable. But problems that have developed over several decades cannot be rectified in six months. Many changes are underway, and the performance of the industry will improve dramatically in the next several years. It doesn't make sense to allow a company to set up shop in the District and operate without regard to existing laws and regulations, but we would welcome Uber as a compliant partner in the District.

It was invitation that Uber unequivocally would accept.

Ahead of face-to-face negotiations with Washington, D.C. regulators, Kalanick continued to insist that Uber's service was legal. "When we enter into a city, we don't take that responsibility lightly," he told *Fortune*. He also conceded, "I like pissing people off."²⁸³ That summer, the city council moved to enact rules that would affirm the company's legality, it was Kalanick who was nonplussed. Council Member Mary Cheh, chair of the council committee that oversees transportation, introduced an amendment that would have set the minimum fare for "sedan-class" transportation,

²⁷⁹ Mike DeBonis, "Uber car impounded, driver ticketed in city sting," *The Washington Post* (Jan. 13, 2012), https://www.washingtonpost.com/blogs/mike-debonis/post/uber-car-impounded-driver-ticketed-in-city-sting/2012/01/13/gIQA4Py3vP_blog.html

²⁸⁰ Ibid

²⁸¹ Eric Eldon, "The DC Taxi Commissioner's Attacks On Uber Have Gotten Even More Ridiculous," *TechCrunch* (Jan. 14, 2012), <http://techcrunch.com/2012/01/14/ubercommissioner/>

²⁸² Ron Linton, "The D.C. Taxi Commission's problem with Uber," *The Washington Post* (Jan. 27, 2012), https://www.washingtonpost.com/opinions/the-dc-taxi-commissions-problem-with-uber/2012/01/25/gIQAgIzHWQ_story.html

²⁸³ JP Mangalindan, "The trials of Uber," *Fortune* (Feb. 2, 2012), <http://fortune.com/2012/02/02/the-trials-of-uber/>

as Uber was categorized, at five times the rate of taxicabs.²⁸⁴ At the time, the cab rate was \$3 and Uber's minimum was \$15, so the bill would have required no change. The bill, however, would have blocked Uber's launch of the lower-priced UberX service within the city.

Uber strongly criticized the legislative proposal. "It was hard for us to believe that an elected body would choose to keep prices of a transportation service artificially high — but the goal is essentially to protect a taxi industry that has significant experience in influencing local politicians," Kalanick wrote to Uber's email subscribers²⁸⁵ urging them to sign the company's latest Change.org petition.²⁸⁶ According to the petition,

The Council's intention is to prevent Uber from being a viable alternative to taxis by enacting a price floor to set Uber's minimum fare at today's rates and no less than 5 times a taxi's minimum fare. Consequently they are handicapping a reliable, high quality transportation alternative so that Uber cannot offer a high quality service at the best possible price.

Cheh's amendment was the topic of heated debate preceding a transportation bill vote. Uber's opposition combined with skepticism from other council members led Cheh to withdraw the amendment, delaying formal legalization.²⁸⁷

The battle, meanwhile, left Council Member Cheh bruised. Kalanick had repeatedly claimed that the company was "not okay with a floor on our price." Emails between Cheh's staff and Uber's lobbyists, however, showed willingness to negotiate this point.²⁸⁸ When the city council unanimously adopted rules for the company in December 2012, they came in a form the company approved.²⁸⁹ "The law makes it explicitly clear that a company like Uber can continue to operate lawfully in Washington, DC," writes Kalanick in a blog post. "The law is pro-consumer and pro-innovation; it's pro-small-business, pro-driver, and progressive."²⁹⁰

²⁸⁴ Benjamin R. Freed, "D.C. Council Moves Closer to Making Uber Street Legal, But Uber's Not Happy About It," DCist (July 9, 2012), <http://dcist.com/2012/07/dc-council-moves-closer-to-making-u.php>

²⁸⁵ Ibid

²⁸⁶ Uber's Washington, D.C. Change.org petition available at <https://www.change.org/p/dc-council-strike-down-the-minimum-fare-language-from-the-uber-amendment>

²⁸⁷ Tim Craig, "D.C. Council delays action on Uber fare regulation," *The Washington Post* (July 10, 2012), https://www.washingtonpost.com/blogs/dc-wire/post/dc-council-delays-action-on-uber-fare-regulation/2012/07/10/gIQAzCVlaW_blog.html; David Weigel, "The Uber Battle," *Slate* (July 20, 2012), http://www.slate.com/articles/news_and_politics/politics/2012/07/uber_s_popular_and_pricey_sedan_service_is_posing_a_challenge_to_dc_laws_and_regulations_governing_taxi_cabs.html

²⁸⁸ Mike DeBonis, "Uber negotiated with Cheh over fare floor," *The Washington Post* (July 27, 2012), https://www.washingtonpost.com/blogs/mike-debonis/post/uber-negotiated-with-cheh-over-fare-floor/2012/07/27/gIQAcRGfEX_blog.html

²⁸⁹ Press Release, Uber, "DC Council Clears Path for Uber's Future" (Dec. 4, 2012), <https://newsroom.uber.com/us-dc/dc-council-clears-path-for-ubers-future/>

²⁹⁰ Ibid

In 2014, another round of pitched legislative and regulatory disputes followed Uber's launch of its lower-priced UberX service. To accommodate the service, the city council passed by a 12-to-1 vote the Vehicle-for-Hire Innovation Act of 2014. Uber lobbyist David Plouffe praised the legislation and suggested it "could be a model for the rest of the country and maybe the world."²⁹¹ Not only did the bill loosen restrictions on transportation network companies; it also introduced ways for traditional taxicabs to raise prices similar to Uber's "surge pricing" methods.²⁹² A spokesperson for the taxi sector called it "a step backwards."

Ahead of the vote, Uber spent \$314,074 lobbying²⁹³ the city council, mostly Council Member Cheh, who introduced the legislation. Cheh disputes that Uber's outsized spending resulted in outsized influence over the final bill. "We passed the legislation because it was in the public interest," Cheh told WAMU 88.5. "Uber's lobbying pretty much consisted of saying 'no regulation, no regulation, no regulation.' Sorry, we can't do that. [...] Now if they want to point out issues or language that they think is problematic, I will look at it. I am not closed minded."²⁹⁴

Conclusion

Uber's vast resources combined with its take-no-prisoners approach make it a formidable opponent to lawmakers and regulators who challenge its preferred policies, not to mention those who attempt to broker compromises between Uber and local transportation interests.

As Uber expands, its ambitions grow. On the company blog, additions of new cities are hailed as victories in a steady march toward "UberEverywhere," a kind of corporate manifest destiny whose vision is for there to be nowhere in the world from which a customer is unable to hail an Uber ride.²⁹⁵ There is now a division of the corporation called "UberEverything," which seeks to transform Uber's network into a delivery service.²⁹⁶

The Brookings Institution has asked, "Is Uber a threat to democracy?" and implied the answer is no, in part because "Uber creates more jobs than it destroys."²⁹⁷ Even assuming the controversial jobs claims to be true, it may not be so for long. Uber and Carnegie Mellon University's National Robotics Engineering Center announced a partnership on February 2, 2015, in which the company and the

²⁹¹ Jacob Fischler, "DC Just Passed A Law That Uber Says Could Serve As A "Model For The Rest Of The Country"," BuzzFeed News (Oct. 28, 2014), http://www.buzzfeed.com/jacobfischler/dc-just-passed-a-law-that-uber-says-could-serve-as-a-model-f#_klll6z7pNA

²⁹² Lori Aratani, "D.C. Council okays bill to legalize Lyft, Sidecar, uberX-type services in the District," *The Washington Post* (Oct. 28, 2014), <https://www.washingtonpost.com/news/dr-gridlock/wp/2014/10/28/d-c-council-okays-bill-to-legalize-lyft-sidecar-uberx-type-services-in-the-district/>

²⁹³ Martin Di Caro, "Uber's Big Lobbying Effort Opened D.C. Doors," WAMU 88.5 (Jan. 29, 2015), http://wamu.org/news/15/01/29/for_uber_in_dc_big_lobbying_costs_produced_results

²⁹⁴ Ibid

²⁹⁵ Press Release, Uber, "205/55/24" (Aug. 28, 2014), <https://newsroom.uber.com/2055524/>

²⁹⁶ Christine Lagorio-Chafkin, "Uber's Insanely Huge Vision of On-Demand Everything," Inc. (Oct. 14, 2015), <http://www.inc.com/christine-lagorio/ubers-insanely-huge-vision-of-on-demand-everything.html>

²⁹⁷ Kemal Derviş, "Is Uber a threat to democracy?," Brookings Institution blog post (July 23, 2015), <http://www.brookings.edu/research/opinions/2015/07/23-uber-democracy-dervis>

university planned to work together toward the development of autonomous robotic vehicles.²⁹⁸ Weeks later, dozens of the university's senior researchers had resigned from the university to work directly for Uber.²⁹⁹ Thirty-six of the 100³⁰⁰ robotics center staff left for Uber, enticed by salaries reportedly double what the university could pay.³⁰¹ In September 2015, Uber gifted the university \$5.5 million to hire new staff. One year after the announcement, the university has little to show for the "partnership" — and a center spokesperson says the university has no plans for future research projects with Uber.³⁰²

But the democracy question is ultimately not a jobs issue. It's not an issue about whether Uber offers a superior product, or whether and how local governments should adjust existing rules to accommodate Uber, or what standards the company should be required to meet.

Living in a democracy means the people have the power to choose their destiny, and it means local governments must make decisions in the public's best interest. No single company or interest should have the power to use deploy its wealth to overwhelm democracy's deliberative and decision making processes.

²⁹⁸ Press Release, Carnegie Mellon University, "Uber, Carnegie Mellon Announce Strategic Partnership and Creation of Advanced Technologies Center in Pittsburgh" (Feb. 2, 2015), <http://www.cmu.edu/news/stories/archives/2015/february/uber-partnership.html>

²⁹⁹ Justine Coyne, "Uber recruited CMU personnel prior to announcing partnership," Pittsburgh Business Times (Feb. 13, 2015), <http://www.bizjournals.com/pittsburgh/news/2015/02/13/uber-recruited-cmu-personnel-prior-to-announcing.html>

³⁰⁰ "One Year After Announcing Pact, the Uber-Carnegie Mellon Partnership Is Stalled," *Reuters / Fortune* (March 21, 2016), <http://fortune.com/2016/03/21/uber-carnegie-mellon-partnership/>

³⁰¹ Mike Ramsey and Douglas MacMillan, "Carnegie Mellon Reels After Uber Lures Away Researchers," *The Wall Street Journal* (May 31, 2016), <http://www.wsj.com/articles/is-uber-a-friend-or-foe-of-carnegie-mellon-in-robotics-1433084582>

³⁰² "One Year After Announcing Pact, the Uber-Carnegie Mellon Partnership Is Stalled," *Reuters / Fortune* (March 21, 2016), <http://fortune.com/2016/03/21/uber-carnegie-mellon-partnership/>