

Analysis of the Massachusetts AG Settlement

Big Lake Data | August 15, 2024

This data brief compares the Massachusetts Attorney General's settlement with Uber and Lyft,¹ the 2024 Minnesota minimum compensation standard,² the industry's preferred ballot initiative in Massachusetts,³ and the status quo situation for Massachusetts drivers.

Summary of findings:

- The Massachusetts AG settlement sets a minimum standard that is 39% lower than what Massachusetts drivers already make. For the average driver, it provides a net pay guarantee of just \$6.61 per hour – compared to their current net pay of \$10.92 per hour. The standard also falls well short of achieving equivalence with the Massachusetts minimum wage.
- This is because of two key failings in the Massachusetts AG settlement framework:
 - First, the \$32.50 per hour minimum only applies to about 70% of drivers' actual working time. If you spread the rate across all working time, it equates to \$22.70 per hour.⁴
 - Second, it **does not** include any reimbursement for working expenses even though the average Massachusetts driver incurs \$16.08 in hourly expenses. This absence is noteworthy because both the TNC's own ballot proposal and the Minnesota standard provide a per mile minimum to reimburse drivers for their substantial driving expenses.
- The AG settlement also includes a "top-off" pay system, which makes the settlement act more like a pay ceiling than a minimum floor. This is because TNCs have free reign to practice algorithmic discrimination **below** the standard instead of pushing that practice **above** the standard. Workers are distrustful of top-off systems that do not provide genuine data transparency.

¹ <https://www.mass.gov/doc/attorney-general-and-uberlyft-settlement-agreement/download>

² <https://www.house.mn.gov/amend/A24-0360.htm>

³ Of the many ballot proposals that they have sponsored in Massachusetts, the TNC representatives have [indicated in a May 6, 2024 public hearing before the Massachusetts Supreme Judicial Court](#) that their preference is for "Version B" [23-25 A Law Defining and Regulating the Relationship Between Network Companies and App-Based Drivers for Purposes of the General and Special Laws – Version B](#)

⁴ Ridehail work is typically divided into three periods: "P3" is when a passenger is being transported, "P2" is when the driver is traveling to a confirmed pick up location, and "P1" is repositioning, returning to base, or otherwise maintaining dispatch readiness. The Massachusetts AG settlement and the TNC's preferred ballot proposal are based on a period that includes both when a passenger is in the vehicle and when the driver is en route to pick up a passenger (P23). Whereas, the requirements of the Minnesota standard have requirements that are based on the working period in which a passenger is being transported (P3).

1. Does the Massachusetts AG settlement address all components of driver earnings?

The Massachusetts AG settlement's minimum compensation rate only applies to about 70% of the average driver's actual working time. It does not count time drivers spend between rides or while in ready status, which is a crucial factor in the TNCs ability to provide quick response times to customer ride requests.⁵ If you spread the \$32.50 per hour minimum across 100% of working time, it equates to \$22.70 per hour.

Whatsmore, the Massachusetts AG settlement **does not** include any reimbursement for working expenses. This is exceptional because the TNCs own ballot proposal and the Minnesota standard both provide a per mile minimum to reimburse drivers for their substantial driving expenses. On average, Massachusetts drivers travel 24.0 miles per hour in their work and incur \$16.08 of driving expenses per hour (24mph x IRS mileage rate of 67 cents per hour).

2. How will the Massachusetts AG settlement affect drivers and how does this compare to other standards?

To assess the impact of the AG settlement and other standards on the Massachusetts workforce, we first estimate drivers' current net pay. This calculation is based on current Massachusetts workforce ridehail compensation data, and uses the 2024 IRS standard mileage rate and average Boston utilization rates to determine gross pay and driving expenses on an hourly basis.⁶ We find the current hourly net pay for the average Massachusetts driver is \$10.92, which is one-third less than the effective Massachusetts minimum wage of \$16.15 (\$15.00, with a 7.65% markup for payroll taxes).⁷

We then apply the elements of each minimum compensation standard to the current Massachusetts workforce to measure their relative impact for the average driver. We find that the Massachusetts AG settlement is 39% less than the status quo and the TNC preferred ballot proposal is 94% less than the standard (Table 1).

⁵ Ridehail work is typically divided into three periods: "P3" is when a passenger is being transported, "P2" is when the driver is traveling to a confirmed pick up location, and "P1" is when the driver is repositioning, returning to base, or otherwise maintaining dispatch readiness. The Massachusetts AG settlement and the TNC's preferred ballot proposal are based on a period that includes both when a passenger is in the vehicle and when the driver is en route to pick up a passenger (P23). Whereas, the requirements of the Minnesota standard have requirements that are based on the working period in which a passenger is being transported (P3).

⁶ The 2024 IRS standard mileage rate is \$0.67 per mile. Utilization rates are listed in the Methodology section below.

⁷ Note that we use February 2024 trip data to calculate *average* net pay *excluding tips*, which provides a consistent metric to compare across standards. This does not directly compare to the \$12.82 *median* hourly net pay reported in the [2023 Drivers Demand Justice wage report](#), which was based on 2022-2023 trip data and is *inclusive of tip earnings*.

Table 1: Comparative Impact Minimum Compensation Standards (translated into work hours)

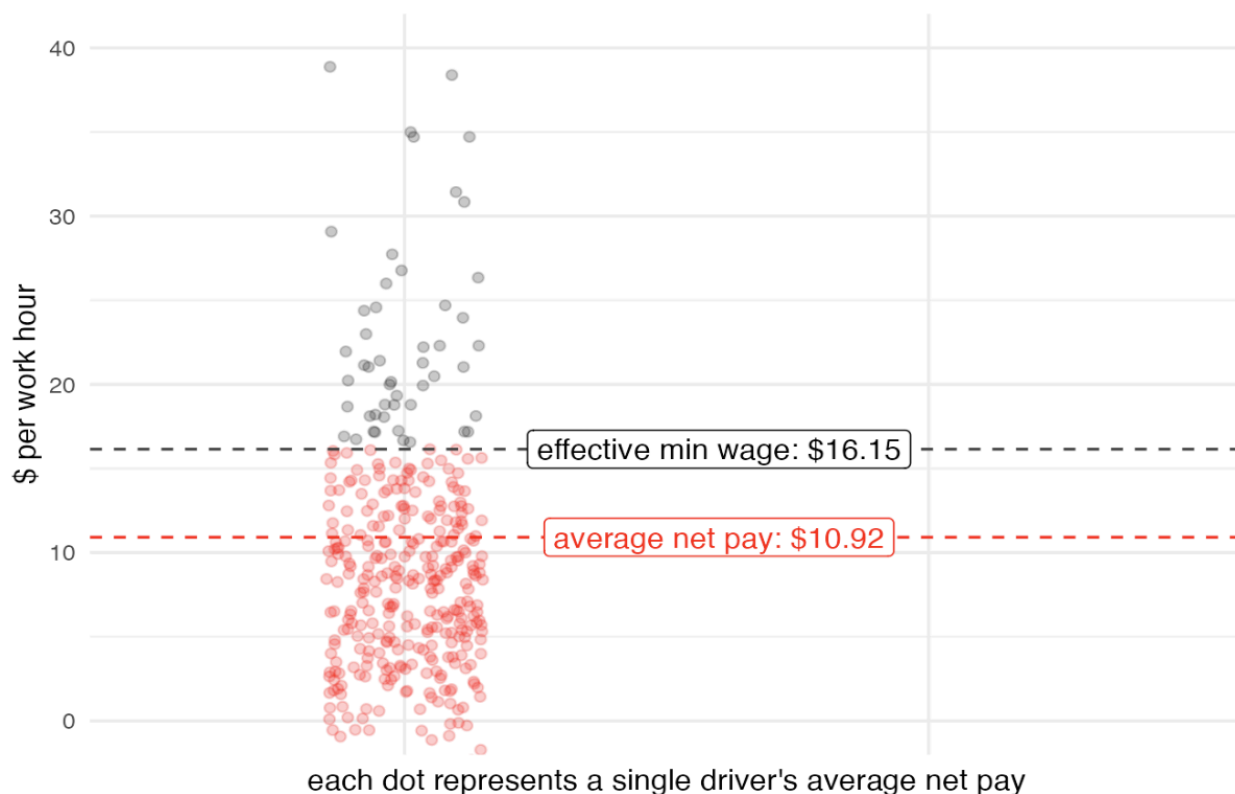
Massachusetts average (P123, February 2024)	Mass. status quo	TNC Ballot Proposal	Minnesota Standard	Mass. AG settlement	Fixed rates to achieve Mass. min wage equivalent
Gross pay per work hour (w/o tips)	\$27.00	\$16.68	\$24.82	\$22.70	\$32.23
Expenses per work hour	-\$16.08	-\$16.08	-\$16.08	-\$16.08	-\$16.08
Net pay per work hour	\$10.92	\$0.60	\$8.73	\$6.61	\$16.15
<i>difference from status quo</i>	<i>0%</i>	<i>-94%</i>	<i>-20%</i>	<i>-39%</i>	<i>48%</i>

Applying these calculations to individual drivers provides insight into the distribution of pay across the workforce, revealing that 85% of drivers have average net hourly pay below minimum wage (Figure 1).

Figure 1. Net Pay Distribution

84.9% of Massachusetts drivers make less than minimum wage

Net pay per total work hour, excluding tips. Monthly basis (Feb 2024).



Source: Big Lake Data analysis of Gridwise data.

3. What are the economic impacts of the “top-off” pay model?

The “top-off” framework is a system in which minimum rates are not paid at the time that rides are performed. Instead, on a *post hoc* basis, the companies calculate whether they paid a given worker below the minimum standard and, if they did, they subsequently make an additional payment to the driver to bring them up to the minimum.

The Massachusetts AG settlement uses a “top-off” framework. It is also a key part of the Prop 22 standard in California, the new Minnesota legislative standard, and the TNC ballot proposal in Massachusetts.

Uber and Lyft prefer this “top-off” pay model over fixed minimum rates because it doesn’t restrict their dynamic pricing systems. But, from a driver’s perspective, there are two reasons to be wary of such a system.

First, a minimum standard that relies on a top-off compensation puts downward pressure on worker pay. When a new pay standard that includes top-off compensation goes into effect, it effectively becomes a ceiling instead of a minimum floor. Recent research indicates that the Prop 22 top-off system has resulted in declining pay in California.⁸ Whereas minimum standards that include fixed rates of minimum pay (no top-offs) such as New York City have seen increases in worker pay.⁹

Second, experienced drivers have become increasingly distrustful of TNC fare systems ever since the TNCs began implementing new “up-front fare” models in which pay is no longer based on fixed per mile and per minute rates. Drivers are generally skeptical of “top-off” systems that do not provide true data transparency.¹⁰

⁸ Reich, Michael 2024. “[Gig driver pay standards in Massachusetts, Minnesota and California](#).” UC Berkeley Center on Wage and Policy Dynamics Policy Brief, June 12, 2024. “Actual net driver passenger pay under Proposition 22 in California in 2022 averaged \$9.71, less than the \$11.49 pay that drivers earned before Proposition 22.”

⁹ Moncrease, S. (2020, December 8). “[New York City’s gig Driver Pay Standard: Effects on drivers, passengers, and the companies](#)” Center for New York City Affairs, The New School.

¹⁰ June 7, 2024. “[Uber and Lyft made a deal to raise drivers’ wages](#)” The Guardian.

Methodology

Data

This analysis relies on Massachusetts ridehail worker data provided by Gridwise.¹¹ It includes 2023 average distance and duration utilization metrics for the Boston metropolitan area, and a February 2024 sample of 43,000 trip-level data records from 393 Uber and Lyft drivers.

Trip records with the following characteristics were removed from the dataset prior to analysis:

- Null or NA values
- Speeds less than 3 miles per hour or greater than 80 miles per hour.
- Associated with drivers who performed less than 5 trips per month.

Utilization Rates

Jacobs and Reich develop a precise breakdown of period shares outside of California.¹² We rely upon this to impute P2 and P1 fractions where those metrics are not provided by Gridwise Analytics.

Table 2: Utilization rates used in crosswalk and net pay calculations

CONSTANTS	Share	Source/Method
P3 time utilization:	0.488	2023 Boston metro annual weighted duration utilization.
P3 miles utilization:	0.512	2023 Boston metro annual weighted distance utilization.
P23 time utilization:	0.698	Imputed: assume P2 share matches UC Berkeley findings of 21%.
P23 miles utilization:	0.612	Imputed: assume P2 share matches UC Berkeley findings of 10%.
P3/P23 time utilization:	0.699	P3 / P23
P3/P23 miles utilization:	0.837	P3 / P23

Net pay

To estimate current net pay for Massachusetts drivers, we analyzed recent trip data for Massachusetts drivers, using utilization rates defined in Table 2 to calculate total working hours and miles (P123). Gross pay for each driver includes bonuses and incentives, but excludes customer tips. We calculate expenses by multiplying the 2024 IRS standard mileage rate of \$0.67 by P123 miles. Net hourly pay is the difference between gross pay and expenses, divided by total hours worked.

¹¹ Gridwise Analytics (<https://gridwise.io/analytics>). Data analysis performed by Big Lake Data (biglakedata.com).

¹² Jacobs, Ken, Michael Reich, Tynan Challenor and Aida Farman, UC Berkeley Labor Center 2024, "[Gig Passenger and Delivery Driver Pay in Five Metro Areas](#)." See tables 7 and 8 of the appendix.

Standard Comparison

To create an apples to apples comparison between the compensation elements of each standard, the requirements of each are translated to equivalent values.¹³ These translated rates are also compared to the fixed rates that would achieve equivalence with the Massachusetts minimum wage.

Table 3: Crosswalk between standards¹⁴

Units of measure rounded to the nearest cent (explicitly defined rates in bold)	TNC Ballot Proposal	Minnesota Standard	Massachusetts AG settlement	Fixed rates to achieve Mass. min wage equivalent
Per P3 minute	\$0.43	\$0.31	\$0.77	\$0.55
Per P3 hour	\$25.74	\$18.60	\$46.48	\$33.07
Per P23 minute	\$0.30	\$0.22	\$0.54	\$0.39
Per P23 hour	\$18.00	\$13.01	\$32.50	\$23.13
Per P123 minute	\$0.21	\$0.15	\$0.38	\$0.27
Per hour worked (all periods)	\$12.57	\$9.08	\$22.70	\$16.15
Per P3 mile	\$0.33	\$1.28	\$0.00	\$1.31
Per P23 mile	\$0.28	\$1.07	\$0.00	\$1.09
Per mile worked (all periods)	\$0.17	\$0.66	\$0.00	\$0.67

¹³ These standards include additional economic provisions for things such as accident and liability insurance and sick pay. Only compensation elements are considered in this analysis.

¹⁴ The 2023 average time and distance utilization rates of Boston drivers are used for this conversion and listed in Table 2.

Massachusetts Scenario Worksheet (August 2024 data brief)

Data: Gridwise Massachusetts trip and earnings monthly record samples and Boston metro 2023 annual utilization rates.

CONSTANTS		Source/Method
P3 time utilization:	0.488	2023 Boston metro annual weighted duration utilization.
P3 miles utilization:	0.512	2023 Boston metro annual weighted distance utilization.
P23 time utilization:	0.698	Imputed: assume P2 share matches UC Berkeley findings of 21%.
P23 miles utilization:	0.612	Imputed: assume P2 share matches UC Berkeley findings of 10%.
P3/P23 time utilization:	0.699	P3 / P23
P3/P23 miles utilization:	0.837	P3 / P23
Massachusetts Minimum Wage	\$15.00	2024
Massachusetts minimum wage w 7.65% payroll tax markup	\$16.15	\$15.00 x 1.0765
Massachusetts minimum wage w 20% markup (TNC Ballot)	\$18.00	\$15.00 x 1.20
IRS standard mileage deduction	\$0.67	2024

Units of measure rounded to the nearest cent (explicitly defined rates in bold)	Massachusetts status quo	TNC Ballot Proposal	Minnesota Standard	Massachusetts AG settlement	Fixed rates to achieve Mass. min wage equivalent
Per P3 minute	-	\$0.43	\$0.31	\$0.77	\$0.55
Per P3 hour	-	\$25.74	\$18.60	\$46.48	\$33.07
Per P23 minute	-	\$0.30	\$0.22	\$0.54	\$0.39
Per P23 hour	-	\$18.00	\$13.01	\$32.50	\$23.13
Per P123 minute	-	\$0.21	\$0.15	\$0.38	\$0.27
Per hour worked (all periods)	-	\$12.57	\$9.08	\$22.70	\$16.15
Per P3 mile	-	\$0.33	\$1.28	\$0.00	\$1.31
Per P23 mile	-	\$0.28	\$1.07	\$0.00	\$1.09
Per mile worked (all periods)	-	\$0.17	\$0.66	\$0.00	\$0.67
After the fact "top-off" ?	NO	YES	YES	YES	NO
Other compensation elements	-	-	\$5 per trip min, 80% of canceled rides	-	-

Massachusetts average (February 2024)	Massachusetts status quo	TNC Ballot Proposal	Minnesota Standard	Massachusetts AG settlement	Fixed rates to achieve Mass. min wage equivalent
Gross pay per hour (w/o tips)	\$27.00	\$16.68	\$24.82	\$22.70	\$32.23
Expenses per hour	-\$16.08	-\$16.08	-\$16.08	-\$16.08	-\$16.08
Net pay per hour	\$10.92	\$0.60	\$8.73	\$6.61	\$16.15
difference from status quo	0%	-94%	-20%	-39%	48%

August 20, 2024: the citation in footnote #8 has been updated.