



**December 17, 2020**

The Honorable Peter Courtney  
The Honorable Tina Kotek  
Joint Interim Committee on The Third Special Session of 2020  
900 Court Street  
Salem, OR 97301  
*Submitted via email*

RE: Written Testimony on LC 10

Dear President Courtney, Speaker Kotek and members of the Committee:

For the record, my name is Caleb Weaver and I oversee public affairs for Uber Technologies across a seven state region in the western United States. Thank you for the opportunity to provide testimony on LC 10 regarding cocktails to go and third party delivery of food and beverages.

Our business relies on thriving local restaurants, and we share the goal of supporting Oregon’s local restaurants during this unprecedented crisis. Uber Eats has been proud to partner with local restaurants to help them remain open since the onset of the pandemic earlier this year. When dine-in options were restricted overnight in the spring, our platform provided restaurants an option to continue to serve their customers and for consumers to continue to patron and support their local eateries. Additionally, recognizing the challenges facing restaurants, we moved quickly to support existing and new partners to make it accessible and affordable to utilize our app to help their business stay open. We reduced and eliminated the fees that cover the costs of food delivery, such as the technology of the platform, insurance, background checks and pay for delivery people.

For these reasons, Uber Eats is supportive of the “Cocktails to Go” element of the bill, which will expand opportunities for the restaurant industry to diversify their offerings during this difficult economic time.

However, we are greatly concerned with the proposal in LC 10 to impose a 10% cap on food delivery by third party delivery companies until 60 days after the Governor’s Declared Emergency Order (“EO”).

First - a 10% cap represents a remarkable government intrusion on private business to business contracts that will have meaningful, negative consequences and threaten the viability of food delivery in Oregon. Indeed, we saw a roughly 25% decrease in deliveries from City of Portland restaurants after Portland's 10% cap went into effect, harming not only the restaurants relying on business generated by delivery services, but also the thousands of area drivers relying on food delivery for income. For context, deliveries around the country generally increased during the same time.

Other jurisdictions have considered this same policy over the last several months and either decided not to pursue the concept after evaluating it, or - with the exception of Portland - decided to impose a higher cap of anywhere from 15% to 25% that better achieves the goal of supporting restaurants while avoiding many of the negative consequences of a 10% cap. Indeed, after a more thoughtful process, lawmakers in liberal places like New York City and New Jersey set caps at 20% or more, which better account for the fixed costs of any app-based food delivery company - credit card fees, background checks, insurance, taxes, driver compensation, technology, fraud prevention and customer service. The state of Washington imposed an 18% statewide cap, and even Seattle and San Francisco decided on 15% caps. And just this week, the National Restaurant Association made it clear that they do not support these kinds of commission caps locally.

Because Uber Eats does not have supplemental fees for things like for credit card processing or lead generation, commissions are one of the primary ways we cover the costs of providing reliable food delivery services. To remain viable, particularly over the extended period when this restriction would be in effect, companies like Uber Eats will be forced to make significant changes to their operations, including potentially reducing services and imposing new fees on customers. In Portland, the result of the cap has been a significant decrease in delivery orders for restaurants, reducing revenue for restaurants, reducing earning opportunities for delivery drivers, and reducing access to food delivery for the public, particularly for vulnerable members of the community. In less densely populated areas, we anticipate the impact could be even more significant.

If you choose to move forward with a cap, we thus strongly urge you to increase the cap to a level similar to what WA, NJ, or New York City have imposed, and avoid these unintended outcomes.

Second, there is no justification for imposing a cap for the duration of the Governor's EO plus 60 days. We understand that we all need to contribute to supporting local restaurants when they are unable to operate indoor dining. However, there are a number of reasons why the Governor's EO

is likely to extend well beyond restrictions on in-restaurant dining (vaccine distribution, resources for public health authorities, etc.), meaning caps will remain in place well beyond the justification for this type of emergency measure. And there is no justification whatsoever for continuing the cap for 60 days beyond the end of the EO.

Accordingly, we ask that you amend the bill to remove the caps upon the resumption of in-restaurant dining, or at latest upon the end of the Governor's EO.

In conclusion, helping our restaurant and dining industry survive this pandemic is a mutual priority for us in Oregon. We want to continue to work with state policy makers to support and strengthen this sector as well as support those who may provide delivery to Oregonians.

Thank you for your consideration and we stand ready to partner with the you and others to find solutions that support our collective goals.

Sincerely,

Caleb Weaver  
Uber Technologies, Inc.