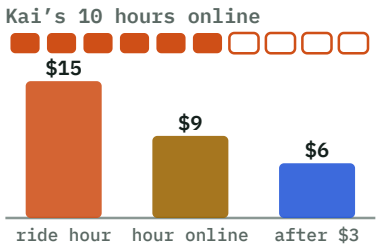
Is a driver an employee?

Gig work = paid one short job (a "gig") at a time, often through an app. An app driver picks his hours, the app sends the riders, and nobody pays him while he waits. The same day gives three different pay numbers; the law has two boxes and app work fits neither well; a pay floor depends on which hours it counts. Question 8 of the ten to ask about any app.

1 Which hour do you count?

three pay numbers

- **Kai** (on **Coralia**, toy island) drives for **Hop** (ride app) · Saturday: `10` h online, `6` with a passenger
- Hop pays `$15` per **passenger-hour** → `6 × $15 = $90`
- Per **hour online** → `$90 ÷ 10 = $9` · empty hours spread the pay thin
- After costs (gas + car `$3` per hour online) → `$9 − $3 = $6`
- Practice, Sunday: 8 h, 4 with a passenger, $20, $2 → `$80` · **$20 · $10 · $8**
- Any claim about "what drivers earn" → ask which hour it counts



2 Who carries the risk

the law's two boxes

- **Risk** = chance that income turns out lower than hoped → an empty hour: `$0` earned, `$3` spent
- `EMPLOYEE` firm sets the hours · paid for them, busy or not · minimum wage, sick pay · **firm carries the slow day**
- `INDEPENDENT CONTRACTOR` sells a service · own hours, own costs, paid by the job · **he carries the slow day**
- `UNSURE` firm-like control + own hours → rate set by the app · switched off by a rating · app picks the rides · bonus lost for saying no
- **Flexibility** = choosing hours hour by hour → Chen, Chevalier, Rossi, Oehlsen (**2019**, data from Uber, US ride app, one author at Uber) → worth > `2×` a less flexible job

3 A pay floor

per hour of what?

- **Minimum wage** (Economic Policy, Lesson 2) · floor `$12`: passenger-hours `$12 × 6 = $72` ⇄ every hour online `$12 × 10 = $120` → gap `$48`
- Who pays the $48? → riders (higher fares) · drivers (fewer hours offered) · the app (smaller profit) → economics lays out the options, does not choose
- Practice, slow Tuesday (8 h, 2 rides × $20 = `$40`): online floor `8 × $12 = $96` → Hop adds `$56` · passenger floor `$24 < $40` → `$0`, Kai carries it
- Quiet hour: 10 online, 4 rides → `6 × $12 = $72` for Hop → may let fewer log on → less waiting, less freedom

4 The real story

verified, dated

- **BLS** (US Bureau of Labor Statistics), July **2023** → `11.9 million` independent contractors = `7.4%` of workers (plumbers, writers too)
- **California, Proposition 22** (law by popular vote), 3 Nov **2020**, `58.6%` → contractors + floor for **engaged time** (with a ride) only · upheld (kept in force) by the state's top court 25 July **2024**
- **UK Supreme Court** (top court), 19 Feb **2021** → drivers for **Uber** (US ride app) are "**workers**" (middle box: minimum wage, paid vacation)
- **EU** platform-work directive, **2024** → platform directs and controls → **presumed employee** unless it shows otherwise · deadline 2 Dec 2026
- Cook, Diamond, Hall, List, Oyer (**2021**, > 1 million US Uber drivers) → men ≈ `7%` more per hour · same rates → experience, place, speed

5 So what?

question 8 of 10

- **Ten questions to ask about any app** · 1 · Who pays, if not you? · 2 · How many others are on it? · 3 · What does one more copy cost? · 4 · What does it know about you, and what is that worth? · 5 · Why did the price just move? · 6 · Could a rival take its place? · 7 · Who gets paid when you press play? · **8 · Who carries the risk of a slow day?**
- Noa → pays by the ride, a car in minutes, never sees the empty hours · Kai → chooses when to work, carries the empty hours (unless a rule says otherwise) → Lesson 9 (Bitcoin: pay in a coin whose value moves?)
- Debate, no verdict: `A FLOOR` people who cannot bargain get a minimum and cover for sick and slow days · `FLEXIBILITY` drivers who value their own hours, and people an employer would not hire, keep the work · Trade Lesson 2: winners and losers not the same people

Watch out: $15 per ride hour ≠ $15 per hour online · a floor on passenger-hours leaves the slow day with the driver · same rates ≠ same pay per hour