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FAST GETAWAY: Uber driver Robert Schultz ferries a passenger through Portland on Dec. 15. Schultz started driving for the ride-sharing company last week, days after it launched its service in defiance of City Hall.

CHRISTOPHER ONSTOTT

# DRIVERS, WANTED

THE CITY CAN'T BACK UP ITS TOUGH TALK ABOUT CRACKING DOWN ON UBER.

BY AARON MESH amesh@wweek.com

It's been nearly two weeks since Uber invaded Portland with a ride-sharing service that defies the city's taxi rules.

Portland officials pledged to take Uber to court, levy hefty fines and impound the cars Uber drivers use as unlicensed cabs.

City Commissioner Steve Novick, who oversees transportation, told *The Oregonian* he intended to "throw the book" at Uber.

It turns out the book lacks the heft of *Infinite Jest*. It's more like Golden Books' *The Poky Little Puppy*.

The city has yet to tow a single Uber car or fine a single driver.

"It would be really helpful," says Frank Dufay, the city's private for-hire transportation manager, "even if we just towed a few—two, one—just to show we're serious about this."

But officials have struggled to identify drivers—they've been able to do so in only three cases—and discovered they may lack the legal authority to put Uber cars on a hook and impound them.

Portland officials fined the San Francisco company \$67,750 in its first 10 days in town, as first reported on wweek.com. It's not clear the city can make those fines stick, however, given that Uber claims it merely matches drivers with riders—and as a result the company itself isn't breaking any rules.

"It has been difficult," acknowledges Novick policy adviser Bryan Hockaday. "We will start fining drivers this week, without any more warnings."

Uber, the 5-year-old startup now valued at \$40 billion, has been trying for nearly two years to bring Portland its service, which lets drivers turn their cars into taxis that customers summon with a tap of their smartphones.

The city turned away Uber in 2013, and has said the company doesn't live up to the long-

held standards for taxis in Portland by not guaranteeing commercial insurance for its drivers, rides for disabled customers and a set schedule of fares. (Uber's "surge pricing" charges customers more during peak hours.)

Novick and other city officials have said they would consider changing some rules to accommodate Uber.

But Uber decided not to wait and launched in Portland on Dec. 5.

City officials have run what amount to stings—summoning Uber drivers and levying fines when they arrive. The city has sent 16 fines to Uber. Fines started at \$1,500, but have since gone up to \$5,000 for each violation. City officials have sent warnings to the three drivers they have identified.

"It's hard," Dufay says of efforts to identify drivers. "When they tell you the car's coming, all you've got is the driver's first name and the license plate."

Towing Uber drivers' cars worked as a deterrent in Nevada, where state officials fighting Uber impounded nearly 50 vehicles this fall until a judge's order blocked the company.

But Portland deputy city attorney David Woboril has advised Novick's office that towing vehicles used for Uber could violate drivers' constitutional rights.

A 2005 decision by the 9th U.S. Circuit Court of Appeals found that the Oregon city of Cornelius violated the rights of a woman who had her car impounded for driving without a license. The court ruled that police could only impound cars if the vehicle posed "a threat to public safety."

"Since that case, nobody has been able to tow based on driver's behavior—the car itself must pose a threat to safety," Woboril says. "It radically changed the landscape. Portland was towing cars right and left before that."

Uber has pledged to keep operating in Portland, and to pay any fines its drivers face.

"In the event that a driver was fined or their car was impounded," Uber general manager Brooke Steger tells *WW*, "we would stand behind that driver 100 percent." **WW**

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