

---

HOUSE BILL 2109

---

State of Washington

65th Legislature

2017 Regular Session

By Representatives Farrell and Stanford

Read first time 02/15/17. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to portable, prorated, universal benefits for  
2 workers of the gig economy; and adding a new chapter to Title 49 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** As used in this chapter:

5 (1) "Contracting agent" means a business, organization,  
6 corporation, limited liability company, partnership, sole proprietor,  
7 or any other entity:

8 (a) That facilitates the provision of services by workers to  
9 consumers seeking the services that both facilitate provision of  
10 services and make payments to workers; and

11 (b) Where the provision of services by workers is taxed under  
12 1099 federal tax status.

13 (2) "Department" means the department of labor and industries.

14 (3) "Qualified benefit provider" means a nonprofit benefit  
15 provider that is eligible to provide benefits to workers of  
16 contracting agents under section 4 of this act.

17 (4) "Worker" means a person who provides services to consumers  
18 through a contracting agent.

19 NEW SECTION. **Sec. 2.** (1) Contracting agents that have  
20 facilitated the provision of services by at least fifty individual

1 workers in a consecutive twelve-month period shall contribute funds  
2 to qualified benefit providers to provide benefits to the workers of  
3 the contracting agents. The requirement to contribute funds under  
4 this chapter only applies when the services are provided to consumers  
5 located in the state.

6 (2)(a) The contribution amount must be the lesser of twenty-five  
7 percent of the total fee collected from the consumer for each  
8 transaction of services provided or six dollars for every hour that  
9 the worker provided services to the consumer. If determined per hour,  
10 then the determination must be prorated per minute.

11 (b) The contribution amount required under this section may be  
12 added to the invoice or billing submitted to the consumer for the  
13 services.

14 (3) Contributions must be made to the qualified benefit provider  
15 on no less than a monthly basis and no later than fifteen days after  
16 the end of the month in which the services were provided.

17 (4) Contributions must indicate the assigned amount per worker  
18 per transaction, according to the following:

19 (a) If a single worker provided services for a transaction, the  
20 entire contribution is assigned to that worker; or

21 (b) If multiple workers provided services for a transaction, the  
22 contribution is assigned proportionately to those workers.

23 NEW SECTION. **Sec. 3.** (1) Based on the contributions received  
24 under section 2 of this act, qualified benefit providers must ensure  
25 that benefits are provided to workers as set forth in this section.

26 (2) Qualified benefit providers shall provide industrial  
27 insurance under Title 51 RCW to those workers entitled to benefits  
28 based on contributions made under section 2 of this act.

29 (3) In addition to industrial insurance, qualified benefit  
30 providers shall provide some or all of the benefits set forth in this  
31 subsection. Qualified benefit providers shall solicit input from  
32 workers on their benefits, and shall allow workers to choose from  
33 available benefits or allocate the contributions among the following  
34 benefits:

35 (a) Health insurance, including but not limited to subsidies to  
36 purchase health insurance on the exchange;

37 (b) Paid time off;

38 (c) Retirement benefits; and

1 (d) Other benefits determined by the qualified benefit providers,  
2 on behalf of the workers.

3 (4) Qualified benefit providers may use up to five percent of  
4 contribution funds received for administration of benefits.

5 NEW SECTION. **Sec. 4.** The department shall adopt rules for  
6 organizations to become qualified benefit providers. At a minimum,  
7 the rules governing qualified benefit providers must require that the  
8 following criteria are met:

9 (1) The organization must be a nonprofit organization, operating  
10 under 26 U.S.C. Sec. 501(c)(3) federal tax status;

11 (2) At least one-half of the organization's board of directors  
12 must be comprised of workers performing work for customers of  
13 contracting agents or representatives of bona fide independent  
14 organizations of such workers;

15 (3) The organization must be independent from all business  
16 entities, organizations, corporations, or individuals that would  
17 pursue any financial interest in conflict with that of the workers;

18 (4) All action of the organization regarding providing benefits  
19 must be for the sole purpose of maximizing benefits to the covered  
20 workers;

21 (5) The board of directors of the organization must hold a  
22 fiduciary duty to the workers with respect to provision of the  
23 benefits; and

24 (6) The organization must demonstrate adequate viability and  
25 financial sufficiency as determined by the department. At a minimum,  
26 the organization must have:

27 (a) Cash reserves in a sufficient amount, as determined by the  
28 department;

29 (b) Liability coverage for an amount determined by the  
30 department;

31 (c) Access to bonding; and

32 (d) Other demonstrated competencies as determined by the  
33 department.

34 NEW SECTION. **Sec. 5.** A worker entitled to benefits under this  
35 chapter must select a qualified benefit provider and must be given  
36 the option to change his or her selected qualified benefit provider  
37 once per year. Workers must be provided information regarding

1 available qualified benefit providers and must be able to easily  
2 select their chosen qualified benefit provider.

3 NEW SECTION. **Sec. 6.** The department shall establish rules to  
4 implement and administer this chapter, including rules for:

5 (1) Monitoring compliance of contracting agents;

6 (2) Monitoring qualified benefit providers, including the ability  
7 to remove providers that are out of compliance with the criteria  
8 established under this chapter;

9 (3) Establishing a fee on contracting agents to fund the  
10 department's compliance efforts;

11 (4) Administering industrial insurance coverage for workers under  
12 this chapter; and

13 (5) Providing procedures for workers to select qualified benefit  
14 providers, to change their selections annually, and to receive  
15 notices of the right to select different qualified benefit providers.

16 NEW SECTION. **Sec. 7.** In addition to any remedies provided by  
17 the department to a worker for a contracting agent's noncompliance, a  
18 worker may bring a private cause of action against a contracting  
19 agent for the contracting agent's failure to comply with the  
20 contribution requirements under section 2 of this act.

21 NEW SECTION. **Sec. 8.** The requirements on contracting agents and  
22 the benefits provided to workers under this chapter may not be  
23 considered in determinations of a worker's employment status or the  
24 contracting agent's employment relationship to the worker under  
25 chapters 51.08, 49.12, 49.46, and 49.48 RCW or under Title 50 RCW.

26 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act  
27 constitute a new chapter in Title 49 RCW.

--- END ---