

SHB 2076 - H AMD 1120

By Representative Berry

WITHDRAWN 02/23/2022

1 Strike everything after the enacting clause and insert the
2 following:

3 "PART I

4 **COMPENSATION, DEACTIVATION, AND DRIVER RESOURCE CENTER**

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.46
6 RCW to read as follows:

7 (1) The definitions in this subsection apply throughout this
8 section unless the context clearly requires otherwise.

9 (a) "Account deactivation" means one or more of the following
10 actions with respect to an individual driver or group of drivers that
11 is implemented by a transportation network company:

12 (i) Blocking access to the transportation network company driver
13 platform;

14 (ii) Changing a driver's status from eligible to provide
15 transportation network company services to ineligible; or

16 (iii) Any other material restriction in access to the
17 transportation network company's driver platform.

18 (b) "Compensation" means payment owed to a driver by reason of
19 providing network services including, but not limited to, the minimum
20 payment for passenger platform time and mileage, incentives, and
21 tips.

22 (c) "Digital network" means any online-enabled technology
23 application service, website, or system offered or utilized by a
24 transportation network company that enables the prearrangement of
25 rides with drivers.

26 (d) "Dispatch location" means the location of the driver at the
27 time the driver accepts a trip request through the driver platform.

28 (e) "Dispatch platform time" means the time a driver spends
29 traveling from a dispatch location to a passenger pick-up location.
30 Dispatch platform time ends when a passenger cancels a trip or the
31 driver begins the trip through the driver platform. A driver cannot

1 simultaneously be engaged in dispatch platform time and passenger
2 platform time for the same transportation network company. For shared
3 rides, dispatch platform time means the time a driver spends
4 traveling from the first dispatch location to the first passenger
5 pick-up location.

6 (f) "Dispatched trip" means the provision of transportation by a
7 driver for a passenger through the use of a transportation network
8 company's application dispatch system.

9 (g) "Driver" has the same meaning as "commercial transportation
10 services provider driver" in RCW 48.177.005. For all purposes under
11 state or local law, including but not limited to all of Titles 48,
12 49, 50A, 50B, and 51 RCW, and any orders, regulations, administrative
13 policies, or opinions of any state or local agency, board, division,
14 or commission, a driver is not an employee or agent of a
15 transportation network company if the following factors are met:

16 (i) The transportation network company does not unilaterally
17 prescribe specific dates, times of day, or a minimum number of hours
18 during which the driver must be logged into the transportation
19 network company's online-enabled application or platform;

20 (ii) The transportation network company may not terminate the
21 contract of the driver for not accepting a specific transportation
22 service request;

23 (iii) The transportation network company does not contractually
24 prohibit the driver from performing services through other
25 transportation network companies except while performing services
26 through the transportation network company's online-enabled
27 application or platform during dispatch platform time and passenger
28 platform time; and

29 (iv) The transportation network company does not contractually
30 prohibit the driver from working in any other lawful occupation or
31 business.

32 Notwithstanding any state or local law to the contrary, any party
33 seeking to establish that the factors in this subsection (1)(g) are
34 not met bears the burden of proof. A driver for purposes of this
35 section shall not include any person ultimately and finally
36 determined to be an "employee" within the meaning of section 2(3) of
37 the national labor relations act, 29 U.S.C. Sec. 152(3).

38 (h) "Driver platform" means the driver-facing application
39 dispatch system software or any online-enabled application service,
40 website, or system, used by a driver, or which enables services to be

1 delivered to a driver that enables the prearrangement of passenger
2 trips for compensation.

3 (i) "Driver resource center" or "center" means a nonprofit
4 organization that provides services to drivers. The nonprofit
5 organization must be registered with the Washington secretary of
6 state, have organizational bylaws giving drivers right to membership
7 in the organization, and have demonstrated experience: (i) Providing
8 services to gig economy drivers in Washington state, including
9 representing drivers in deactivation appeals proceedings; and (ii)
10 providing culturally competent driver representation services,
11 outreach, and education. The administration and formation of the
12 driver resource center may not be funded, excessively influenced, or
13 controlled by a transportation network company.

14 (j) "Driver resource center fund" or "fund" means the dedicated
15 fund created in section 2 of this act, the sole purpose of which is
16 to administer funds collected from transportation network companies
17 to provide services, support, and benefits to drivers.

18 (k) "Network services" means services related to the
19 transportation of passengers through the driver platform that are
20 provided by a driver while logged in to the driver platform,
21 including services provided during available platform time, dispatch
22 platform time, and passenger platform time.

23 (l) "Passenger" has the same meaning as "commercial
24 transportation services provider passenger" in RCW 48.177.005.

25 (m) "Passenger drop-off location" means the location of a
26 driver's vehicle when the passenger leaves the vehicle.

27 (n) "Passenger pick-up location" means the location of the
28 driver's vehicle at the time the driver starts the trip in the driver
29 platform.

30 (o) "Passenger platform miles" means all miles driven during
31 passenger platform time as recorded in a transportation network
32 company's driver platform.

33 (p) "Passenger platform time" means the period of time when the
34 driver is transporting one or more passengers on a trip. For shared
35 rides, passenger platform time means the period of time commencing
36 when the first passenger enters the driver's vehicle until the time
37 when the last passenger exits the driver's vehicle.

38 (q) "Personal vehicle" has the same meaning as "personal vehicle"
39 in RCW 48.177.005.

1 (r) "Shared ride" means a dispatched trip which, prior to its
2 commencement, a passenger requests through the transportation network
3 company's digital network to share the dispatched trip with one or
4 more passengers and each passenger is charged a fare that is
5 calculated, in whole or in part, based on the passenger's request to
6 share all or a part of the dispatched trip with one or more
7 passengers, regardless of whether the passenger actually shares all
8 or a part of the dispatched trip.

9 (s) "Tips" means a verifiable sum to be presented by a passenger
10 as a gift or gratuity in recognition of service performed for the
11 passenger by the driver receiving the tip.

12 (t) "Transportation network company" has the same meaning as
13 defined in RCW 46.04.652. A transportation network company does not
14 provide for hire transportation service.

15 (2) A driver is covered by this section if the driver provides
16 network services within the state of Washington.

17 (3)(a) A transportation network company is covered by this
18 section if it provides a driver platform within the state of
19 Washington.

20 (b) Separate entities that form an integrated enterprise are
21 considered a single transportation network company under this
22 section. Separate entities will be considered an integrated
23 enterprise and a single transportation network company where a
24 separate entity controls the operation of another entity. Factors to
25 consider include, but are not limited to, the degree of interrelation
26 between the operations of multiple entities; the degree to which the
27 entities share common management; the centralized control of labor
28 relations; the degree of common ownership or financial control over
29 the entities; and the use of a common brand, trade, business, or
30 operating name.

31 (4)(a) A transportation network company shall ensure that a
32 driver's total compensation is not less than the standard set forth
33 in (a)(i), (ii), or (iii) of this subsection (4).

34 (i) For all dispatched trips originating in cities with a
35 population of more than 600,000, on a per trip basis the greater of:

36 (A) \$0.59 per passenger platform minute for all passenger
37 platform time for that trip, and \$1.38 per passenger platform mile
38 for all passenger platform miles driven on that trip; or

39 (B) A minimum of \$5.17 per dispatched trip.

40 (ii) For all other dispatched trips, the greater of:

1 (A) \$0.34 per passenger platform minute and \$1.17 per passenger
2 platform mile; or
3 (B) A minimum of \$3.00 per dispatched trip.
4 (iii) For all trips originating elsewhere and terminating in
5 cities with a population of more than 600,000:
6 (A) For all passenger platform time spent within the city on that
7 trip and for all passenger platform miles driven in the city on that
8 trip the compensation standard under (a)(i) of this subsection
9 applies.
10 (B) For all passenger platform time spent outside the city on
11 that trip and for all passenger platform miles driven outside the
12 city on that trip the compensation standard under (a)(ii) of this
13 subsection applies.
14 (b) Beginning September 30, 2022, and on each following September
15 30th, the department shall calculate adjusted per mile and per minute
16 amounts and per trip minimums by increasing the current year's per
17 mile and per minute amounts and per trip minimums by the rate of
18 increase of the state minimum wage, calculated to the nearest cent.
19 The adjusted amount calculated under this section takes effect on the
20 following January 1st.
21 (c) For shared rides, the per trip minimums in (a)(i) and (ii) of
22 this subsection shall apply only to the entirety of the shared ride,
23 and not on the basis of the individual passenger's trip within the
24 shared ride.
25 (5)(a) For the purposes of this section, a dispatched trip
26 includes:
27 (i) A dispatched trip in which the driver transports the
28 passenger to the passenger drop-off location;
29 (ii) A dispatched trip canceled after two minutes by a passenger
30 or the transportation network company unless cancellation is due to
31 driver conduct, or no cancellation fee is charged to the passenger;
32 (iii) A dispatched trip that is canceled by the driver for good
33 cause consistent with company policy; and
34 (iv) A dispatched trip where the passenger does not appear at the
35 passenger pick-up location within five minutes.
36 (b) A transportation network company may exclude time and miles
37 if doing so is reasonably necessary to remedy or prevent fraudulent
38 use of the transportation network company's online-enabled
39 application or platform.

1 (6) (a) A transportation network company shall remit to drivers
2 all tips. Tips paid to a driver are in addition to, and may not count
3 towards, the driver's minimum compensation under this section.

4 (b) Amounts remitted for tolls, fees, or surcharges incurred by a
5 driver during a trip must not be included in calculating minimum
6 compensation.

7 (c) (i) Except as required by law, a transportation network
8 company may only deduct compensation when the driver expressly
9 authorizes the deduction in writing and does so in advance for a
10 lawful purpose. Any authorization by a driver must be voluntary and
11 knowing.

12 (ii) Nothing in this section shall prohibit a transportation
13 network company from deducting compensation as required by state or
14 federal law or as directed by a court order.

15 (iii) Neither the transportation network company nor any person
16 acting in the interest of the transportation network company may
17 derive any financial profit or benefit from any of the deductions
18 under this section. For the purposes of this section:

19 (A) Reasonable interest charged by the transportation network
20 company or any person acting in the interest of a transportation
21 network company, for a loan or credit extended to the driver, is not
22 considered to be of financial benefit to the transportation network
23 company or person acting in the interest of a transportation network
24 company; and

25 (B) A deduction will be considered for financial profit or
26 benefit only if it results in a gain over and above the fair market
27 value of the goods or services for which the deduction was made.

28 (7) (a) A transportation network company shall provide each driver
29 with a written notice of rights established by this section in a form
30 and manner sufficient to inform drivers of their rights under this
31 section. The notice of rights shall provide information on:

32 (i) The right to the applicable per minute rate and per mile rate
33 guaranteed by this section;

34 (ii) The right to be protected from retaliation for exercising in
35 good faith the rights protected by this section; and

36 (iii) The right to seek legal action or file a complaint with the
37 department for violation of the requirements of this section,
38 including a transportation network company's failure to pay the
39 minimum per minute rate or per mile rate, or a transportation network

1 company's retaliation against a driver or other person for engaging
2 in an activity protected by this section.

3 (b) A transportation network company shall provide the notice of
4 rights required by this section in an electronic format that is
5 readily accessible to the driver. The notice of rights shall be made
6 available to the driver via smartphone application or online web
7 portal, in English and the five most common foreign languages spoken
8 in this state.

9 (8) Within 24 hours of completion of each dispatched trip, a
10 transportation network company must transmit an electronic receipt to
11 the driver that contains the following information for each unique
12 trip, or portion of a unique trip, covered by this section:

13 (a) The total amount of passenger platform time;

14 (b) The total mileage driven during passenger platform time;

15 (c) The total mileage driven during passenger pick-up time;

16 (d) Passenger fare;

17 (e) Rate or rates of pay, including but not limited to the rate
18 per minute, rate per mile, percentage of passenger fare, and any
19 applicable price multiplier or variable pricing policy in effect for
20 the trip;

21 (f) Tip compensation;

22 (g) Gross payment;

23 (h) Net payment after deductions, fees, tolls, surcharges, lease
24 fees, or other charges; and

25 (i) Itemized deductions or fees, including any toll, surcharge,
26 commission, lease fees, and other charges.

27 (9) A transportation network company shall make driver per trip
28 receipts available in a downloadable format, such as a comma-
29 separated values file or PDF file, via smartphone application or
30 online web portal for a period of two years from the date the
31 transportation network company provided the receipt to the driver.

32 (10) On a weekly basis, the transportation network company shall
33 provide written notice to the driver that contains the following
34 information for trips, or a portion of a trip, that is covered by
35 this section and which occurred in the prior week:

36 (a) The driver's total passenger platform time;

37 (b) Total mileage driven by the driver during passenger platform
38 time;

39 (c) Total amount of passenger fares;

40 (d) The driver's total tip compensation;

1 (e) The driver's gross payment, itemized by: (i) Rate per minute;
2 (ii) rate per mile; and (iii) any other method used to calculate pay
3 including, but not limited to, base pay, percentage of passenger
4 fare, or any applicable price multiplier or variable pricing policy
5 in effect for the trip;

6 (f) The driver's net payment after deductions, fees, tolls,
7 surcharges, lease fees, or other charges; and

8 (g) Itemized deductions or fees, including all tolls, surcharges,
9 commissions, lease fees, and other charges, from the driver's
10 payment.

11 (11) Within 24 hours of a trip's completion, a transportation
12 network company must transmit an electronic receipt to the passenger,
13 for on trip time, on behalf of the driver that lists:

14 (a) The date and time of the trip;

15 (b) The passenger pick-up and passenger drop-off locations for
16 the trip. In describing the passenger pick-up location and passenger
17 drop-off location, the transportation network company shall describe
18 the location by indicating the specific block (e.g. "the 300 block of
19 Pine Street") in which the passenger pick-up and passenger drop-off
20 occurred. A transportation network company is authorized to indicate
21 the location with greater specificity, such as with a street address
22 or intersection, at its discretion;

23 (c) The total duration and distance of the trip;

24 (d) The driver's first name;

25 (e) The total fare paid, itemizing all charges and fees; and

26 (f) Compensation paid to the driver with passenger-paid tips
27 separately itemized.

28 (12)(a) Beginning July 1, 2024, transportation network companies
29 shall collect and remit a \$0.15 per trip fee to the driver resource
30 center fund, created in section 2 of this act, for the driver
31 resource center to support the driver community. The remittance under
32 this subsection is a pass-through of passenger fares and shall not be
33 considered a transportation network company's funding of the driver
34 resource center. Passenger fares paid include each individual trip
35 portion on shared trips. The remittances to the fund must be made on
36 a quarterly basis.

37 (b) Beginning September 30, 2022, and on each following September
38 30th, the department shall calculate an adjusted per trip fee by
39 adjusting the current amount by the rate of inflation. The adjusted
40 amounts must be calculated to the nearest cent using the consumer

1 price index for urban wage earners and clerical workers, CPI-W, or a
2 successor index, for the 12 months prior to each September 1st as
3 calculated by the United States department of labor. Each adjusted
4 amount calculated under this subsection takes effect on the following
5 January 1st.

6 (13) No later than one year after the effective date of this
7 section, transportation network companies shall provide an
8 opportunity for drivers to make voluntary per trip earnings deduction
9 contributions to the driver resource center, provided that 100 or
10 more drivers working for transportation network companies covered
11 under this section have authorized such a deduction to the driver
12 resource center, and subject to the following:

13 (a) A driver must expressly authorize the deduction in writing.
14 Written authorization must include, at a minimum, sufficient
15 information to identify the driver and the driver's desired per trip
16 deduction amount. These deductions may reduce the driver's per trip
17 earnings below the minimums set forth in this section.

18 (b) The transportation network company may require written
19 authorization to be submitted in electronic format from the driver
20 resource center.

21 (c) The transportation network company shall make the first
22 deductions within 30 days of receiving a written authorization of the
23 driver, and shall remit deductions to the driver resource center each
24 month, with remittance due not later than 28 days following the end
25 of the month.

26 (d) A driver's authorization remains in effect until the driver
27 resource center provides an express revocation to the transportation
28 network company.

29 (e) A transportation network company shall rely on information
30 provided by the driver resource center regarding the authorization
31 and revocation of deductions.

32 (f) Upon request by a transportation network company, the driver
33 resource center shall reimburse the transportation network company
34 for the costs associated with deduction and remittance. The
35 department shall adopt rules to calculate the reimbursable costs.

36 (14) Each transportation network company shall submit to the
37 fund, with its remittance, a report detailing the number of trips in
38 the previous quarter and the total amount of the surcharge charged to
39 customers. The first payment and accounting is due on the 30th day of
40 the quarter following the imposition of the surcharge. Failure to

1 remit payments by the deadlines is deemed a delinquency and the
2 transportation network company is subject to penalties and interest
3 as follows:

4 (a) The rate of interest applicable to delinquent payment
5 obligations under this section is 12 percent per annum, or the
6 maximum rate permitted under RCW 19.52.020.

7 (b) Any monetary penalty imposed under this section must be
8 retained by the department and be used to defray the costs of
9 administering this section. A transportation network company that is
10 found, after a hearing held pursuant to chapter 34.12 RCW, to be in
11 default to the fund for assessments owed under this section is liable
12 for the amount of the assessments determined to be due and
13 outstanding, plus interest on the amounts owed and any monetary
14 penalties imposed under this section.

15 (c) If a transportation network company fails to pay any
16 assessments or penalties awarded under this section within 20 days of
17 issuance of a valid order to pay, the transportation network company
18 is liable for all amounts wrongfully withheld, plus interest as
19 provided for in this subsection, and reasonable attorneys' fees and
20 costs.

21 (15)(a) The state expressly intends to displace competition with
22 regulation allowing a transportation network company, at its own
23 volition, to enter into an agreement with the driver resource center
24 regarding a driver account deactivation appeals process for eligible
25 account deactivations. It is the policy of the state to promote a
26 fair appeals process related to eligible account deactivations that
27 supports the rights of drivers and transportation network companies
28 and provides fair processes related to eligible account
29 deactivations. The state intends that any agreement under this
30 section is immune from all federal and state antitrust laws.

31 (i) "Eligible account deactivation" means one or more of the
32 following actions with respect to an individual driver that is
33 implemented by a transportation network company:

34 (A) Blocking or restricting access to the transportation network
35 company driver platform for three or more consecutive days; or

36 (B) Changing a driver's account status from eligible to provide
37 transportation network company services to ineligible for three or
38 more consecutive days.

39 (ii) An eligible account deactivation does not include any change
40 in a driver's access or account status that is:

1 (A) Related to an allegation of discrimination, harassment,
2 including sexual harassment or harassment due to someone's membership
3 in a protected class, or physical or sexual assault, or willful or
4 knowing commitment of fraud;

5 (B) Related to an allegation that the driver was under the
6 influence of drugs or alcohol while a related active investigation
7 that takes no longer than 10 business days is under way; or

8 (C) Any other categories the transportation network company may
9 agree to, at its own volition, as part of the agreement with the
10 driver resource center, under this subsection.

11 (iii) The state policy is to promote the rights of drivers and
12 transportation network companies and provide fair processes related
13 to driver account deactivation. The state intends that any agreement
14 under this section is immune from all federal and state antitrust
15 laws. A transportation network company shall enter into an agreement
16 with the driver resource center regarding the driver account
17 deactivation appeals process for eligible account deactivations. Any
18 agreement must be approved by the department. The department may
19 approve an agreement only if the agreement contains the provisions in
20 (a)(iv) of this subsection.

21 (iv) The agreement must provide an appeals process for drivers
22 whose account has been subject to an eligible account deactivation.
23 The appeals process must include the following protections:

24 (A) Opportunity for a driver representative to support a driver,
25 upon the driver's request, throughout the account deactivation
26 appeals process for eligible account deactivations;

27 (B) Notification to drivers of their right to representation by
28 the driver resource center at the time of the eligible account
29 deactivation;

30 (C) Within 30 calendar days of a request, furnishing to the
31 driver resource center an explanation and information the
32 transportation network company may have relied upon in making the
33 deactivation decision, excluding confidential, proprietary, or
34 otherwise privileged communications, provided that personal
35 identifying information and confidential information is redacted to
36 address reasonable privacy and confidentiality concerns;

37 (D) A good faith, informal resolution process that is committed
38 to efficient resolution of conflicts regarding eligible account
39 deactivations within 30 days of the transportation network company

1 being notified that the driver contests the explanation offered by
2 the company;

3 (E) A formal process that includes a just cause standard, with
4 deadlines for adjudication of an appeal of an eligible account
5 deactivation by a panel that includes a mutually agreed-upon neutral
6 third party with experience in dispute resolution. The panel has the
7 authority to make binding decisions within the confines of the law
8 and make-whole monetary awards, including back pay, based on an
9 agreed-upon formula for cases not resolved during the informal
10 process;

11 (F) Agreement by the transportation network company to use the
12 process set forth in this subsection to resolve disputes over
13 eligible account deactivation appeals as an alternative to private
14 arbitration with regard to such a dispute, should the driver and
15 transportation network company so choose; and

16 (G) Agreement by the transportation network company that eligible
17 account deactivations in which the driver or transportation network
18 company elect private arbitration in lieu of the formal process
19 outlined above shall be adjudicated under the just cause standard
20 outlined in (a) (iv) (E) of this subsection.

21 (b) A transportation network company that enters into an
22 agreement with the driver resource center shall reach agreement
23 through the following steps:

24 (i) The driver resource center and transportation network company
25 must make good faith efforts to reach an agreement within 120 days of
26 the effective date of this section or within 120 days of providing a
27 driver platform in this state.

28 (ii) If the driver resource center and transportation network
29 company cannot reach an agreement, then they are required to submit
30 issues of dispute before a jointly agreed-upon mediator.

31 (iii) After mediation lasting no more than two months has been
32 exhausted and no resolution has been reached, then the parties will
33 proceed to binding arbitration before a panel of arbitrators
34 consisting of one arbitrator selected by the driver resource center,
35 one arbitrator selected by the transportation network company, and a
36 third arbitrator selected by the other two. If the two selected
37 arbitrators cannot agree to the third arbitrator within 10 days, then
38 the third arbitrator shall be determined from a list of seven
39 arbitrators with experience in labor disputes or interest arbitration
40 designated by the American arbitration association. A coin toss shall

1 determine which side strikes the first name. Thereafter the other
2 side shall strike a name. The process will continue until only one
3 name remains, who shall be the third arbitrator. Alternatively, the
4 driver resource center and the transportation network company may
5 agree to a single arbitrator.

6 (iv) The arbitrators must submit their decision within 60 days of
7 the panel or arbitrator being chosen.

8 (v) The decision of the arbitrator is final and binding and will
9 then be submitted to the director of the department for final
10 approval.

11 (c) Any agreement under this section must be submitted to the
12 department for approval. The department shall review the agreement to
13 ensure that its content is consistent with this subsection and the
14 public policy goals set forth in this subsection. The department
15 shall consider in its review both qualitative and quantitative
16 effects of the agreement and how the agreement comports with the
17 state policies set forth in this section. In conducting a review, the
18 record shall not be limited to the submissions of the parties nor to
19 the terms of the proposed agreement and the department shall have the
20 right to conduct public hearings and request additional information
21 from the parties, provided that such information: (i) Is relevant for
22 determining whether the agreement complies with this subsection; and
23 (ii) does not contain either parties' confidential, proprietary, or
24 privileged information, or any individual's personal identifying
25 information from the parties. The department may approve or reject a
26 proposed agreement, and may require the parties to submit a revised
27 proposal on all or particular parts of the proposed agreement. If the
28 department rejects an agreement, it shall set forth its reasoning in
29 writing and shall suggest ways the parties may remedy the failures.
30 Absent good cause, the department shall issue a written determination
31 regarding its approval or rejection within 30 days of submission of
32 the agreement.

33 (d) A transportation network company must notify any driver whose
34 account is subject to an eligible account deactivation between the
35 effective date of this section and the effective date of the
36 agreement of their right to appeal the eligible account deactivation
37 and provide the driver with the contact information of the driver
38 resource center. Drivers whose accounts have been subject to an
39 eligible account deactivation between the effective date of this
40 section and the effective date of the agreement shall be able to

1 appeal the eligible account deactivation pursuant to the procedures
2 outlined in the agreement.

3 (16) The department may adopt rules to implement this section.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.46
5 RCW to read as follows:

6 (1) The legislature recognizes that providing education and
7 outreach to drivers regarding their rights and obligations furthers
8 the state's interest in having a vibrant knowledgeable work force and
9 safe and satisfied consumers. The legislature therefore intends to
10 create a way of providing education, outreach, and support to workers
11 who, because of the nature of their work, do not have access to such
12 support through traditional avenues.

13 (2) The driver resource center fund is created in the custody of
14 the state treasurer. All moneys received from the remittance in
15 section 1 of this act must be deposited into the fund.

16 (3) Only the director of the department of labor and industries
17 or the director's designee may authorize expenditures from the fund.
18 The fund is subject to allotment procedures under chapter 43.88 RCW,
19 but an appropriation is not required for expenditures.

20 (4) The department may make expenditures from the fund for the
21 following purposes:

22 (a) Services provided by the driver resource center to drivers
23 and administrative costs of providing such support. The department
24 must distribute funding received by the account, exclusive of the
25 department's administrative costs deducted under (b) of this
26 subsection, to the center on a quarterly basis; and

27 (b) The department's costs of administering the fund and its
28 duties under section 1 of this act, not to exceed 10 percent of
29 revenues to the fund.

30 (5) Within four months of the effective date of this section, the
31 director of the department or the director's designee shall, through
32 a competitive process, select and contract with a qualified nonprofit
33 organization to be the driver resource center.

34 **PART II**
35 **PAID SICK LEAVE**

36 **Sec. 3.** RCW 49.46.210 and 2019 c 236 s 3 are each amended to
37 read as follows:

1 (1) Beginning January 1, 2018, except as provided in RCW
2 49.46.180, every employer shall provide each of its employees paid
3 sick leave as follows:

4 (a) An employee shall accrue at least one hour of paid sick leave
5 for every forty hours worked as an employee. An employer may provide
6 paid sick leave in advance of accrual provided that such front-
7 loading meets or exceeds the requirements of this section for
8 accrual, use, and carryover of paid sick leave.

9 (b) An employee is authorized to use paid sick leave for the
10 following reasons:

11 (i) An absence resulting from an employee's mental or physical
12 illness, injury, or health condition; to accommodate the employee's
13 need for medical diagnosis, care, or treatment of a mental or
14 physical illness, injury, or health condition; or an employee's need
15 for preventive medical care;

16 (ii) To allow the employee to provide care for a family member
17 with a mental or physical illness, injury, or health condition; care
18 of a family member who needs medical diagnosis, care, or treatment of
19 a mental or physical illness, injury, or health condition; or care
20 for a family member who needs preventive medical care; and

21 (iii) When the employee's place of business has been closed by
22 order of a public official for any health-related reason, or when an
23 employee's child's school or place of care has been closed for such a
24 reason.

25 (c) An employee is authorized to use paid sick leave for absences
26 that qualify for leave under the domestic violence leave act, chapter
27 49.76 RCW.

28 (d) An employee is entitled to use accrued paid sick leave
29 beginning on the ninetieth calendar day after the commencement of his
30 or her employment.

31 (e) Employers are not prevented from providing more generous paid
32 sick leave policies or permitting use of paid sick leave for
33 additional purposes.

34 (f) An employer may require employees to give reasonable notice
35 of an absence from work, so long as such notice does not interfere
36 with an employee's lawful use of paid sick leave.

37 (g) For absences exceeding three days, an employer may require
38 verification that an employee's use of paid sick leave is for an
39 authorized purpose. If an employer requires verification,
40 verification must be provided to the employer within a reasonable

1 time period during or after the leave. An employer's requirements for
2 verification may not result in an unreasonable burden or expense on
3 the employee and may not exceed privacy or verification requirements
4 otherwise established by law.

5 (h) An employer may not require, as a condition of an employee
6 taking paid sick leave, that the employee search for or find a
7 replacement worker to cover the hours during which the employee is on
8 paid sick leave.

9 (i) For each hour of paid sick leave used, an employee shall be
10 paid the greater of the minimum hourly wage rate established in this
11 chapter or his or her normal hourly compensation. The employer is
12 responsible for providing regular notification to employees about the
13 amount of paid sick leave available to the employee.

14 (j) Unused paid sick leave carries over to the following year,
15 except that an employer is not required to allow an employee to carry
16 over paid sick leave in excess of forty hours.

17 (k) This section does not require an employer to provide
18 financial or other reimbursement for accrued and unused paid sick
19 leave to any employee upon the employee's termination, resignation,
20 retirement, or other separation from employment. When there is a
21 separation from employment and the employee is rehired within twelve
22 months of separation by the same employer, whether at the same or a
23 different business location of the employer, previously accrued
24 unused paid sick leave shall be reinstated and the previous period of
25 employment shall be counted for purposes of determining the
26 employee's eligibility to use paid sick leave under subsection (1)(d)
27 of this section.

28 (2) For purposes of this section, "family member" means any of
29 the following:

30 (a) A child, including a biological, adopted, or foster child,
31 stepchild, or a child to whom the employee stands in loco parentis,
32 is a legal guardian, or is a de facto parent, regardless of age or
33 dependency status;

34 (b) A biological, adoptive, de facto, or foster parent,
35 stepparent, or legal guardian of an employee or the employee's spouse
36 or registered domestic partner, or a person who stood in loco
37 parentis when the employee was a minor child;

38 (c) A spouse;

39 (d) A registered domestic partner;

40 (e) A grandparent;

1 (f) A grandchild; or

2 (g) A sibling.

3 (3) An employer may not adopt or enforce any policy that counts
4 the use of paid sick leave time as an absence that may lead to or
5 result in discipline against the employee.

6 (4) An employer may not discriminate or retaliate against an
7 employee for his or her exercise of any rights under this chapter
8 including the use of paid sick leave.

9 (5) (a) The definitions in this subsection apply to this
10 subsection:

11 (i) "Average hourly earnings" means a driver's earnings during
12 passenger platform time from, or facilitated by, the transportation
13 network company, during the 365 days immediately prior to the day
14 that paid sick time is used, divided by the total hours of passenger
15 platform time worked by the driver on that transportation network
16 company's driver platform during that period. "Average hourly
17 earnings" does not include tips.

18 (ii) "Driver," "driver platform," "passenger platform time," and
19 "transportation network company" have the meanings provided in
20 section 1 of this act.

21 (iii) "Earned paid sick time" is the time provided by a
22 transportation network company to a driver as calculated under this
23 subsection. For each hour of earned paid sick time used by a driver,
24 the transportation network company shall compensate the driver at a
25 rate equal to the driver's average hourly earnings.

26 (b) Beginning January 1, 2023, a transportation network company
27 must provide to each driver operating on its driver platform
28 compensation for earned paid sick time as required by this subsection
29 and subject to the provisions of this subsection. A driver shall
30 accrue one hour of earned paid sick time for every 40 hours of
31 passenger platform time worked.

32 (c) A driver is entitled to use accrued earned paid sick time
33 upon recording 90 hours of passenger platform time on the
34 transportation network company's driver platform.

35 (d) For each hour of earned paid sick time used, a driver shall
36 be paid the driver's average hourly earnings.

37 (e) A transportation network company shall establish an
38 accessible system for drivers to request and use earned paid sick
39 time. The system must be available to drivers via smartphone
40 application and online web portal.

1 (f) A driver may carry over up to 40 hours of unused earned paid
2 sick time to the next calendar year. If a driver carries over unused
3 earned paid sick time to the following year, accrual of earned paid
4 sick time in the subsequent year must be in addition to the hours
5 accrued in the previous year and carried over.

6 (g) A driver is entitled to use accrued earned paid sick time if
7 the driver has used the transportation network company's platform as
8 a driver within 90 calendar days preceding the driver's request to
9 use earned paid sick time.

10 (h) A driver is entitled to use earned paid sick time during a
11 deactivation or other status that prevents the driver from performing
12 network services on the transportation network company's platform,
13 unless the driver's status is due to a verified allegation of sexual
14 assault or physical assault perpetrated by the driver.

15 (i) If a driver does not record any passenger platform time in a
16 transportation network company's driver platform for 365 or more
17 consecutive days, any unused earned paid sick time accrued up to that
18 point with that transportation network company is no longer valid or
19 recognized.

20 (j) Drivers may use accrued days of earned paid sick time in
21 increments of a minimum of four or more hours. Drivers are entitled
22 to request four or more hours of earned paid sick time for immediate
23 use, including consecutive days of use. Drivers are not entitled to
24 use more than eight hours of earned paid sick time within a single
25 calendar day.

26 (k) A transportation network company shall compensate a driver
27 for requested hours or days of earned paid sick time no later than 14
28 calendar days or the next regularly scheduled date of compensation
29 following the requested hours or days of earned paid sick time.

30 (l) A transportation network company shall not request or require
31 reasonable verification of a driver's qualifying illness except as
32 permitted under subsection (1)(g) of this section. If a
33 transportation network company requires verification pursuant to
34 subsection (1)(g) of this section, the transportation network company
35 must compensate the driver for the requested hours or days of earned
36 paid sick time no later than the driver's next regularly scheduled
37 date of compensation after satisfactory verification is provided.

38 (m) If a driver accepts an offer of prearranged services for
39 compensation from a transportation network company during the four-
40 hour period or periods for which the driver requested earned paid

1 sick time, a transportation network company may determine that the
2 driver did not use earned paid sick time for an authorized purpose.

3 (n) A transportation network company shall provide each driver
4 with:

5 (i) Written notification of the current rate of average hourly
6 earnings while a passenger is in the vehicle during the most recent
7 calendar month for use of earned paid sick time;

8 (ii) An updated amount of accrued earned paid sick time since the
9 last notification;

10 (iii) Reduced earned paid sick time since the last notification;

11 (iv) Any unused earned paid sick time available for use; and

12 (v) Any amount that the transportation network company may
13 subtract from the driver's compensation for earned paid sick time.

14 The transportation network company shall provide this information to
15 the driver no less than monthly. The transportation network company
16 may choose a reasonable system for providing this notification,
17 including but not limited to: A pay stub; a weekly summary of
18 compensation information; or an online system where drivers can
19 access their own earned paid sick time information. A transportation
20 network company is not required to provide this information to a
21 driver if the driver has not worked any days since the last
22 notification.

23 **PART III**

24 **INDUSTRIAL INSURANCE**

25 **Sec. 4.** RCW 51.12.020 and 2015 c 236 s 4 are each amended to
26 read as follows:

27 The following are the only employments which shall not be
28 included within the mandatory coverage of this title:

29 (1) Any person employed as a domestic servant in a private home
30 by an employer who has less than two employees regularly employed
31 forty or more hours a week in such employment.

32 (2) Any person employed to do gardening, maintenance, or repair,
33 in or about the private home of the employer. For the purposes of
34 this subsection, "maintenance" means the work of keeping in proper
35 condition, "repair" means to restore to sound condition after damage,
36 and "private home" means a person's place of residence.

1 (3) A person whose employment is not in the course of the trade,
2 business, or profession of his or her employer and is not in or about
3 the private home of the employer.

4 (4) Any person performing services in return for aid or
5 sustenance only, received from any religious or charitable
6 organization.

7 (5) Sole proprietors or partners.

8 (6) Any child under eighteen years of age employed by his or her
9 parent or parents in agricultural activities on the family farm.

10 (7) Jockeys while participating in or preparing horses for race
11 meets licensed by the Washington horse racing commission pursuant to
12 chapter 67.16 RCW.

13 (8) (a) Except as otherwise provided in (b) of this subsection,
14 any bona fide officer of a corporation voluntarily elected or
15 voluntarily appointed in accordance with the articles of
16 incorporation or bylaws of the corporation, who at all times during
17 the period involved is also a bona fide director, and who is also a
18 shareholder of the corporation. Only such officers who exercise
19 substantial control in the daily management of the corporation and
20 whose primary responsibilities do not include the performance of
21 manual labor are included within this subsection.

22 (b) Alternatively, a corporation that is not a "public company"
23 as defined in RCW 23B.01.400 may exempt eight or fewer bona fide
24 officers, who are voluntarily elected or voluntarily appointed in
25 accordance with the articles of incorporation or bylaws of the
26 corporation and who exercise substantial control in the daily
27 management of the corporation, from coverage under this title without
28 regard to the officers' performance of manual labor if the exempted
29 officer is a shareholder of the corporation, or may exempt any number
30 of officers if all the exempted officers are related by blood within
31 the third degree or marriage. If a corporation that is not a "public
32 company" elects to be covered under (~~subsection (8)~~) (a) of this
33 subsection, the corporation's election must be made on a form
34 prescribed by the department and under such reasonable rules as the
35 department may adopt.

36 (c) Determinations respecting the status of persons performing
37 services for a corporation shall be made, in part, by reference to
38 Title 23B RCW and to compliance by the corporation with its own
39 articles of incorporation and bylaws. For the purpose of determining
40 coverage under this title, substance shall control over form, and

1 mandatory coverage under this title shall extend to all workers of
2 this state, regardless of honorary titles conferred upon those
3 actually serving as workers.

4 (d) A corporation may elect to cover officers who are exempted by
5 this subsection in the manner provided by RCW 51.12.110.

6 (9) Services rendered by a musician or entertainer under a
7 contract with a purchaser of the services, for a specific engagement
8 or engagements when such musician or entertainer performs no other
9 duties for the purchaser and is not regularly and continuously
10 employed by the purchaser. A purchaser does not include the leader of
11 a group or recognized entity who employs other than on a casual basis
12 musicians or entertainers.

13 (10) Services performed by a newspaper vendor, carrier, or
14 delivery person selling or distributing newspapers on the street, to
15 offices, to businesses, or from house to house and any freelance news
16 correspondent or "stringer" who, using his or her own equipment,
17 chooses to submit material for publication for free or a fee when
18 such material is published.

19 (11) Services performed by an insurance producer, as defined in
20 RCW 48.17.010, or a surplus line broker licensed under chapter 48.15
21 RCW.

22 (12) Services performed by a booth renter. However, a person
23 exempted under this subsection may elect coverage under RCW
24 51.32.030.

25 (13) Members of a limited liability company, if either:

26 (a) Management of the company is vested in its members, and the
27 members for whom exemption is sought would qualify for exemption
28 under subsection (5) of this section were the company a sole
29 proprietorship or partnership; or

30 (b) Management of the company is vested in one or more managers,
31 and the members for whom the exemption is sought are managers who
32 would qualify for exemption under subsection (8) of this section were
33 the company a corporation.

34 ~~(14) ((A driver providing commercial transportation services as
35 defined in RCW 48.177.005. The driver may elect coverage in the
36 manner provided by RCW 51.32.030.~~

37 ~~(15))~~) For hire vehicle operators under chapter 46.72 RCW who own
38 or lease the for hire vehicle, chauffeurs under chapter 46.72A RCW
39 who own or lease the limousine, and operators of taxicabs under

1 chapter 81.72 RCW who own or lease the taxicab. An owner or lessee
2 may elect coverage in the manner provided by RCW 51.32.030.

3 **Sec. 5.** RCW 51.08.070 and 2008 c 102 s 2 are each amended to
4 read as follows:

5 (1) "Employer" means any person, body of persons, corporate or
6 otherwise, and the legal representatives of a deceased employer, all
7 while engaged in this state in any work covered by the provisions of
8 this title, by way of trade or business, or who contracts with one or
9 more workers, the essence of which is the personal labor of such
10 worker or workers. Or as an exception to the definition of employer,
11 persons or entities are not employers when they contract or agree to
12 remunerate the services performed by an individual who meets the
13 tests set forth in (~~subsections (1) through (6) of~~) RCW 51.08.195
14 (1) through (6) or the separate tests set forth in RCW 51.08.181 for
15 work performed that requires registration under chapter 18.27 RCW or
16 licensing under chapter 19.28 RCW.

17 (2) Notwithstanding subsection (1) of this section, and for
18 purposes of this title only, a transportation network company, as
19 defined in section 1 of this act, shall have the same rights and
20 obligations of an "employer" under this title with respect to a
21 driver, as defined in section 1 of this act, only while the driver is
22 engaged in passenger platform time and dispatch platform time.

23 **Sec. 6.** RCW 51.08.180 and 2008 c 102 s 3 are each amended to
24 read as follows:

25 (1) "Worker" means every person in this state who is engaged in
26 the employment of an employer under this title, whether by way of
27 manual labor or otherwise in the course of his or her employment;
28 also every person in this state who is engaged in the employment of
29 or who is working under an independent contract, the essence of which
30 is his or her personal labor for an employer under this title,
31 whether by way of manual labor or otherwise, in the course of his or
32 her employment, or as an exception to the definition of worker, a
33 person is not a worker if he or she meets the tests set forth in
34 subsections (1) through (6) of RCW 51.08.195 or the separate tests
35 set forth in RCW 51.08.181 for work performed that requires
36 registration under chapter 18.27 RCW or licensing under chapter 19.28
37 RCW: PROVIDED, That a person is not a worker for the purpose of this
38 title, with respect to his or her activities attendant to operating a

1 truck which he or she owns, and which is leased to a common or
2 contract carrier.

3 (2) Notwithstanding subsection (1) of this section, and for
4 purposes of this title only, a driver, as defined in section 1 of
5 this act, shall have the same rights and obligations of a "worker"
6 under this title with respect to a transportation network company, as
7 defined in section 1 of this act, only while the driver is engaged in
8 passenger platform time and dispatch platform time.

9 NEW SECTION. Sec. 7. A new section is added to chapter 51.16
10 RCW to read as follows:

11 (1) Beginning January 1, 2023, the department shall assess
12 premiums for transportation network companies, as defined in section
13 1 of this act, in accordance with RCW 51.16.035 and this section, for
14 workers' compensation coverage applicable while the driver is engaged
15 in passenger platform time and dispatch platform time, as those terms
16 are defined in section 1 of this act.

17 (2) For the purposes of calculating the premium under subsection
18 (1) of this section, the department shall multiply the total number
19 of hours spent by drivers in passenger platform time and dispatch
20 platform time on the transportation network company's driver platform
21 by the rates established for taxicab companies. The department may
22 subsequently adjust premiums in accordance with department rules.

23 (3) The department may adopt rules to carry out the purposes of
24 this section, including rules providing for alternative reporting
25 requirements, alternative reporting periods, and payment due dates
26 for coverage under this section.

27 **Sec. 8.** RCW 51.16.060 and 1985 c 315 s 1 are each amended to
28 read as follows:

29 ~~((Every))~~ Except as provided in section 7 of this act, every
30 employer not qualifying as a self-insurer, shall insure with the
31 state and shall, on or before the last day of January, April, July
32 and October of each year thereafter, furnish the department with a
33 true and accurate payroll for the period in which workers were
34 employed by it during the preceding calendar quarter, the total
35 amount paid to such workers during such preceding calendar quarter,
36 and a segregation of employment in the different classes established
37 pursuant to this title, and shall pay its premium thereon to the
38 appropriate fund. Premiums for a calendar quarter, whether reported

1 or not, shall become due and delinquent on the day immediately
2 following the last day of the month following the calendar quarter.
3 The sufficiency of such statement shall be subject to the approval of
4 the director: PROVIDED, That the director may in his or her
5 discretion and for the effective administration of this title require
6 an employer in individual instances to furnish a supplementary report
7 containing the name of each individual worker, his or her hours
8 worked, his or her rate of pay and the class or classes in which such
9 work was performed: PROVIDED FURTHER, That in the event an employer
10 shall furnish the department with four consecutive quarterly reports
11 wherein each such quarterly report indicates that no premium is due
12 the department may close the account: PROVIDED FURTHER, That the
13 department may promulgate rules and regulations in accordance with
14 chapter 34.05 RCW to establish other reporting periods and payment
15 due dates in lieu of reports and payments following each calendar
16 quarter, and may also establish terms and conditions for payment of
17 premiums and assessments based on estimated payrolls, with such
18 payments being subject to approval as to sufficiency of the estimated
19 payroll by the department, and also subject to appropriate periodic
20 adjustments made by the department based on actual payroll: AND
21 PROVIDED FURTHER, That a temporary help company which provides
22 workers on a temporary basis to its customers shall be considered the
23 employer for purposes of reporting and paying premiums and
24 assessments under this title according to the appropriate rate
25 classifications as determined by the department: PROVIDED, That the
26 employer shall be liable for paying premiums and assessments, should
27 the temporary help company fail to pay the premiums and assessments
28 under this title.

29 NEW SECTION. **Sec. 9.** A new section is added to chapter 51.04
30 RCW to read as follows:

31 (1) The application of this chapter to a transportation network
32 company, as defined in section 1 of this act, shall not be indicative
33 of, or considered a factor in determining, the existence of an
34 employer-employee relationship between the transportation network
35 company and driver for purposes of any other rights, benefits, or
36 obligations under other state and local employment laws.

37 (2) A transportation network company's compliance with this
38 chapter satisfies any obligation under any county, city, town, or

1 other municipal corporation ordinance requiring compensation or
2 benefits for workplace injuries or occupational disease.

3 **PART IV**

4 **STATEWIDE REGULATORY REQUIREMENTS**

5 NEW SECTION. **Sec. 10.** The purpose of this chapter is to:
6 Provide statewide uniform regulation for transportation network
7 companies within the state of Washington, encourage technological
8 innovation, and preserve and enhance access to important
9 transportation options for residents and visitors to Washington
10 state.

11 NEW SECTION. **Sec. 11.** The definitions in this section apply
12 throughout this chapter unless the context clearly requires
13 otherwise.

14 (1) "Digital network" means any online-enabled application,
15 website, or system offered or used by a transportation network
16 company which enables the prearrangement of rides between drivers and
17 passengers.

18 (2) "Driver" has the meaning provided in section 1 of this act.

19 (3) "Network services" has the meaning provided in section 1 of
20 this act.

21 (4) "Passenger" means an individual who uses a digital network to
22 connect with a driver in order to obtain a prearranged ride in the
23 driver's transportation network company vehicle. A person may use a
24 digital network to request a prearranged ride on behalf of a
25 passenger.

26 (5) "Prearranged ride" has the same meaning provided in RCW
27 48.177.005.

28 (6) "Transportation network company" has the meaning provided in
29 section 1 of this act.

30 (7) "Transportation network company vehicle" has the same meaning
31 as "personal vehicle" in RCW 48.177.005.

32 NEW SECTION. **Sec. 12.** (1) A transportation network company or
33 driver is not a common carrier, motor carrier, or any other carrier
34 as defined in RCW 81.80.010, and does not provide for hire
35 transportation service, commuter ride sharing, taxicab, auto
36 transportation company services, or metropolitan public

1 transportation services pursuant to chapter 35.58, 46.72, 46.73,
2 81.68, or 81.72 RCW.

3 (2) A driver is not required to register a transportation network
4 company vehicle as a commercial vehicle or for hire vehicle.

5 NEW SECTION. **Sec. 13.** (1) A person must first obtain a permit
6 from the department to operate a transportation network company in
7 Washington state, except that any transportation network company
8 operating in the state before the effective date of this section may
9 continue operating until the department creates a permit process and
10 sets a registration deadline.

11 (2) The department must annually issue a permit to each applicant
12 that meets the requirements for a transportation network company as
13 set forth in this chapter and pays an annual permit fee of \$5,000 to
14 the department.

15 NEW SECTION. **Sec. 14.** Any transportation network company
16 operating in Washington state must maintain an agent for service of
17 process in the state.

18 NEW SECTION. **Sec. 15.** (1) Before a passenger enters a
19 transportation network company vehicle, the transportation network
20 company must provide, on behalf of the driver, either the fare for
21 the prearranged ride or the option to receive an estimated fare for
22 the prearranged ride.

23 (2) During the first seven days of a state of emergency, as
24 declared by the governor or the president of the United States, a
25 transportation network company may not charge a fare for
26 transportation network company services provided to any passenger
27 that exceeds two and one-half times the fare that would otherwise be
28 applicable for the prearranged ride.

29 NEW SECTION. **Sec. 16.** A transportation network company's
30 digital network or website must display a photograph of the driver
31 and the license plate number of the transportation network company
32 vehicle.

33 NEW SECTION. **Sec. 17.** (1) A transportation network company must
34 implement a zero tolerance policy regarding a driver's activities
35 while accessing the transportation network company's digital network.

1 The zero tolerance policy must address the use of drugs or alcohol
2 while a driver is providing prearranged rides or is logged in to the
3 transportation network company's digital network but is not providing
4 prearranged rides.

5 (2) A transportation network company must provide notice of this
6 policy on its website, as well as procedures to report a complaint
7 about a driver with whom a passenger was matched and whom the
8 passenger reasonably suspects was under the influence of drugs or
9 alcohol during the course of the trip.

10 (3) A transportation network company must maintain records
11 relevant to the enforcement of the policy under this section for a
12 period of at least two years from the date that a passenger complaint
13 is received by the transportation network company.

14 NEW SECTION.

Sec. 18.

(1) Before allowing an individual to
15 accept prearranged ride requests as a driver through a transportation
16 network company's digital network and annually thereafter:

17 (a) The individual must submit an application to the
18 transportation network company, which includes information regarding
19 his or her name, address, phone number, age, driver's license number,
20 motor vehicle registration, automobile liability insurance, and other
21 information required by the transportation network company;

22 (b) The transportation network company, or a designated third
23 party on behalf of the transportation network company, that is either
24 nationally accredited or approved by the director, must conduct an
25 annual local and national criminal background check for the applicant
26 to include a review of:

27 (i) A multistate/multijurisdiction criminal records locator or
28 other similar commercial nationwide database with validation; and

29 (ii) The United States department of justice national sex
30 offender public website; and

31 (c) The transportation network company, or designated third
32 party, must obtain and review a driving history report for the
33 individual.

34 (2) A transportation network company must not permit an
35 individual to act as a driver on its digital network who:

36 (a) Has had more than three moving violations in the prior three-
37 year period, or one of the following major violations in the prior
38 three-year period:

39 (i) Attempting to elude the police pursuant to RCW 46.61.024;

1 (ii) Reckless driving pursuant to RCW 46.61.500; or
2 (iii) Driving on a suspended or revoked driver's license pursuant
3 to RCW 46.20.342 or 46.20.345;
4 (b) Has been convicted, within the past seven years, of:
5 (i) Any class A or B felony in Title 9A RCW;
6 (ii) Any violent offense as defined in RCW 9.94A.030 or serious
7 violent offense as defined in RCW 9.94A.030;
8 (iii) Any most serious offense as defined in RCW 9.94A.030; or
9 (iv) Driving under the influence, hit and run, or any other
10 driving-related crime pursuant to RCW 46.61.500 through 46.61.540;
11 (c) Has been convicted of any sex offense as defined in RCW
12 9.94A.030 or is a match in the United States department of justice
13 national sex offender public website;
14 (d) Does not possess a valid driver's license;
15 (e) Does not possess proof of automobile liability insurance for
16 the motor vehicle or vehicles used to provide prearranged rides;
17 (f) Is not at least 20 years of age; or
18 (g) Has not self-certified that he or she is physically and
19 mentally fit to be a transportation network company driver.
20 (3) Subsection (2)(a) and (b) of this section applies to any
21 conviction of any offense committed in another jurisdiction that
22 includes all of the elements of any of the offenses described or
23 defined in subsection (2)(a) and (b) of this section.
24 (4) A transportation network company must establish a background
25 check policy consistent with this section that transparently informs
26 drivers of any thresholds for categories of violations and any other
27 factors which will result in a restriction of access to the driver
28 platform.

29 NEW SECTION. **Sec. 19.** A driver may not:

30 (1) Solicit or accept a trip request to provide network services
31 other than a trip request arranged through a transportation network
32 company's digital network;
33 (2) Provide network services for more than 14 consecutive hours
34 in a 24-hour period; or
35 (3) Allow any other individual to use that driver's access to a
36 transportation network company's digital network.

37 NEW SECTION. **Sec. 20.** (1) A transportation network company must
38 adopt a policy of nondiscrimination on the basis of race, color,

1 national origin, religious belief or affiliation, sex, disability,
2 age, sexual orientation, or gender identity with respect to
3 passengers and potential passengers and notify drivers of such
4 policy.

5 (2) A driver must comply with all applicable laws regarding
6 nondiscrimination against transportation network company riders or
7 potential riders on the basis of race, color, national origin,
8 religious belief or affiliation, sex, disability, age, sexual
9 orientation, or gender identity.

10 (3) A driver must comply with all applicable laws relating to the
11 transportation of service animals.

12 (4) A transportation network company may not impose additional
13 charges for providing services to persons with disabilities because
14 of those disabilities.

15 NEW SECTION. **Sec. 21.** A transportation network company must
16 maintain the following records:

17 (1) Individual trip records, except receipts pursuant to section
18 1(9) of this act, for at least three years from the end of the
19 calendar year in which each trip was provided; and

20 (2) Individual records of drivers, except receipts pursuant to
21 section 1(9) of this act, at least until the end of the calendar year
22 marking the three-year anniversary of the date on which a driver's
23 relationship with the transportation network company has ended.

24 NEW SECTION. **Sec. 22.** (1) For the sole purpose of verifying
25 that a transportation network company is in compliance with the
26 requirements of this chapter and no more than twice per year, the
27 department may review a sample of records that the transportation
28 network company is required to maintain under this chapter. The
29 sample of records must be chosen randomly by the department in a
30 manner agreeable to both parties. Any record sample furnished to the
31 department may exclude information that would reasonably identify
32 specific drivers or passengers.

33 (2) Records provided to the department for inspection under this
34 chapter are exempt from disclosure under chapter 42.56 RCW and are
35 confidential and not subject to disclosure to a third party by the
36 department without prior written consent of the transportation
37 network company.

1 NEW SECTION. **Sec. 23.** The uniform regulation of business and
2 professions act, chapter 18.235 RCW, governs unlicensed practice, the
3 issuance and denial of licenses, and the discipline of licensees
4 under this chapter.

5 NEW SECTION. **Sec. 24.** The department may adopt rules consistent
6 with and as necessary to carry out this chapter.

7 NEW SECTION. **Sec. 25.** A transportation network company shall
8 not, unless based upon a bona fide occupational qualification, refuse
9 to contract with or terminate the contract of a driver based upon
10 age, sex, marital status, sexual orientation, race, creed, color,
11 national origin, citizenship or immigration status, honorably
12 discharged veteran or military status, or the presence of any
13 sensory, mental, or physical disability or the use of a trained guide
14 dog or service animal by a person with a disability.

15 NEW SECTION. **Sec. 26.** (1) Except as provided in subsections (2)
16 and (3) of this section, the state preempts the field of regulating
17 transportation network companies and drivers. No county, city, town,
18 or other municipal corporation may regulate transportation network
19 companies or drivers, or impose any tax, fee, or other charge, either
20 direct or indirect, on a transportation network company or driver.

21 (2)(a) Except as provided in (b) of this subsection, a local
22 ordinance or regulation existing on or before the effective date of
23 this section that imposes a tax, fee, or surcharge on a
24 transportation network company or driver remains in effect at the
25 rate that exists on or before the effective date of this section. The
26 county, city, town, or other municipal corporation may continue to
27 collect that tax, fee, or surcharge, but may not increase the amount
28 of that tax, fee, or surcharge, and may not impose any higher or new
29 taxes, fees, or surcharges.

30 (b) Notwithstanding (a) of this subsection, any local ordinance
31 or regulation existing on or before the effective date of this
32 section that imposed a per trip tax, fee, or surcharge for which, at
33 the time the ordinance became effective, the proceeds were to be used
34 in part to fund a driver conflict resolution center, shall be reduced
35 by \$0.15. The county, city, town, or other municipal corporation may
36 continue to collect that tax, fee, or surcharge, but only at the
37 reduced rate and may not increase the amount of that tax, fee, or

1 surcharge, and may not impose any higher or new taxes, fees, or
2 surcharges.

3 (3) (a) A local ordinance or regulation existing on or before the
4 effective date of this section that regulated licensing for
5 transportation network companies and permits for drivers, or the
6 requirements for and processing of applications, certifications,
7 examinations, and background checks for drivers and personal
8 vehicles, remains in effect as the requirements exist on the
9 effective date of this section. The county, city, town, or other
10 municipality may continue to enforce any ordinance or regulation but
11 may not alter or amend the requirements, except if such alteration or
12 amendment conforms with the requirements of this chapter.

13 (b) Nothing in (a) of this subsection is intended to create any
14 exception to the field preemption established by subsection (1) of
15 this section for any local ordinance or regulation related to
16 requirements covered by sections 1 and 3 through 9 of this act. All
17 such ordinances or regulations are preempted and may not be enforced
18 by any county, city, town, or other municipal corporation.

19 (4) Nothing in this chapter shall be interpreted to prevent an
20 airport operator, as defined in RCW 14.08.015, from requiring a
21 transportation network company to enter into a contract or agreement,
22 consistent with the provisions of RCW 14.08.120, governing
23 requirements of the transportation network company on airport
24 property including but not limited to the fees and operational
25 requirements. An airport operator may not impose any requirements
26 through a contract authorized by this section that relate to
27 requirements covered by sections 1 and 3 through 9 of this act.

28 **Sec. 27.** RCW 48.177.010 and 2015 c 236 s 2 are each amended to
29 read as follows:

30 (1) (a) Before being used to provide commercial transportation
31 services, every personal vehicle must be covered by a primary
32 automobile insurance policy that specifically covers commercial
33 transportation services. However, the insurance coverage requirements
34 of this section are alternatively satisfied by securing coverage
35 pursuant to chapter 46.72 or 46.72A RCW that covers the personal
36 vehicle being used to provide commercial transportation services and
37 that is in effect twenty-four hours per day, seven days per week.
38 Except as provided in subsection (2) of this section, a commercial
39 transportation services provider must secure this policy for every

1 personal vehicle used to provide commercial transportation services.
2 For purposes of this section, a "primary automobile insurance policy"
3 is not a private passenger automobile insurance policy.

4 (b) The primary automobile insurance policy required under this
5 section must provide coverage, as specified in this subsection
6 (1)(b), at all times the driver is logged in to a commercial
7 transportation services provider's digital network or software
8 application and at all times a passenger is in the vehicle as part of
9 a prearranged ride.

10 (i) The primary automobile insurance policy required under this
11 subsection must provide the following coverage during commercial
12 transportation services applicable during the period before a driver
13 accepts a requested ride through a digital network or software
14 application:

15 (A) Liability coverage in an amount no less than fifty thousand
16 dollars per person for bodily injury, one hundred thousand dollars
17 per accident for bodily injury of all persons, and thirty thousand
18 dollars for damage to property;

19 (B) Underinsured motorist coverage to the extent required under
20 RCW 48.22.030; and

21 (C) Personal injury protection coverage to the extent required
22 under RCW 48.22.085 and 48.22.095.

23 (ii) The primary automobile insurance policy required under this
24 subsection must provide the following coverage, applicable during the
25 period of a prearranged ride:

26 (A) Combined single limit liability coverage in the amount of one
27 million dollars for death, personal injury, and property damage;

28 (B) Underinsured motorist coverage in the amount of (~~one million~~
29 ~~dollars~~) \$100,000 per person, \$300,000 per accident; and

30 (C) Personal injury protection coverage to the extent required
31 under RCW 48.22.085 and 48.22.095.

32 (2)(a) As an alternative to the provisions of subsection (1) of
33 this section, (~~if the office of the insurance commissioner approves~~
34 ~~the offering of an insurance policy that recognizes that a person is~~
35 ~~acting as a driver for a commercial transportation services provider~~
36 ~~and using a personal vehicle to provide commercial transportation~~
37 ~~services,~~) a driver may secure a primary automobile insurance policy
38 covering a personal vehicle and providing the same coverage as
39 required in subsection (1) of this section from a lawful admitted or
40 surplus lines insurer. The policy coverage may be in the form of a

1 rider to, or endorsement of, the driver's private passenger
2 automobile insurance policy only if approved as such by the office of
3 the insurance commissioner.

4 (b) If the primary automobile insurance policy maintained by a
5 driver to meet the obligation of this section does not provide
6 coverage for any reason, including that the policy lapsed or did not
7 exist, the commercial transportation services provider must provide
8 the coverage required under this section beginning with the first
9 dollar of a claim.

10 (c) The primary automobile insurance policy required under this
11 subsection and subsection (1) of this section may be secured by any
12 of the following:

13 (i) The commercial transportation services provider as provided
14 under subsection (1) of this section;

15 (ii) The driver as provided under (a) of this subsection; or

16 (iii) A combination of both the commercial transportation
17 services provider and the driver.

18 (3) The insurer or insurers providing coverage under subsections
19 (1) and (2) of this section are the only insurers having the duty to
20 defend any liability claim from an accident occurring while
21 commercial transportation services are being provided.

22 (4) In addition to the requirements in subsections (1) and (2) of
23 this section, before allowing a person to provide commercial
24 transportation services as a driver, a commercial transportation
25 services provider must provide written proof to the driver that the
26 driver is covered by a primary automobile insurance policy that meets
27 the requirements of this section. Alternatively, if a driver
28 purchases a primary automobile insurance policy as allowed under
29 subsection (2) of this section, the commercial transportation
30 services provider must verify that the driver has done so.

31 (5) A primary automobile insurance policy required under
32 subsection (1) or (2) of this section may be placed with an insurer
33 licensed under this title to provide insurance in the state of
34 Washington or as an eligible surplus line insurance policy as
35 described in RCW 48.15.040, or through a surplus lines insurer that
36 meets the financial requirements as described in RCW 48.15.090 and
37 follows the procurement procedures of RCW 48.15.040.

38 (6) Insurers that write automobile insurance in Washington may
39 exclude any and all coverage afforded under a private passenger
40 automobile insurance policy issued to an owner or operator of a

1 personal vehicle for any loss or injury that occurs while a driver
2 for a commercial transportation services provider is logged in to a
3 commercial transportation services provider's digital network or
4 while a driver provides a prearranged ride. This right to exclude all
5 coverage may apply to any coverage included in a private passenger
6 automobile insurance policy including, but not limited to:

7 (a) Liability coverage for bodily injury and property damage;

8 (b) Personal injury protection coverage;

9 (c) Underinsured motorist coverage;

10 (d) Medical payments coverage;

11 (e) Comprehensive physical damage coverage; and

12 (f) Collision physical damage coverage.

13 (7) Nothing in this section shall be construed to require a
14 private passenger automobile insurance policy to provide primary or
15 excess coverage or a duty to defend for the period of time in which a
16 driver is logged in to a commercial transportation services
17 provider's digital network or software application or while the
18 driver is engaged in a prearranged ride or the driver otherwise uses
19 a vehicle to transport passengers for compensation.

20 (8) Insurers that exclude coverage under subsection (6) of this
21 section have no duty to defend or indemnify any claim expressly
22 excluded under subsection (6) of this section. Nothing in this
23 section shall be deemed to invalidate or limit an exclusion contained
24 in a policy, including any policy in use or approved for use in
25 Washington state before July 24, 2015, that excludes coverage for
26 vehicles used to carry persons or property for a charge or available
27 for hire by the public.

28 (9) An exclusion exercised by an insurer in subsection (6) of
29 this section applies to any coverage selected or rejected by a named
30 insured under RCW 48.22.030 and 48.22.085. The purchase of a rider or
31 endorsement by a driver under subsection (2)(a) of this section does
32 not require a separate coverage rejection under RCW 48.22.030 or
33 48.22.085.

34 (10) If more than one insurance policy provides valid and
35 collectible coverage for a loss arising out of an occurrence
36 involving a motor vehicle operated by a driver, the responsibility
37 for the claim must be divided as follows:

38 (a) Except as provided otherwise under subsection (2)(c) of this
39 section, if the driver has been matched with a passenger and is
40 traveling to pick up the passenger, or the driver is providing

1 services to a passenger, the commercial transportation services
2 provider that matched the driver and passenger must provide insurance
3 coverage; or

4 (b) If the driver is logged in to the digital network or software
5 application of more than one commercial transportation services
6 provider but has not been matched with a passenger, the liability
7 must be divided equally among all of the applicable insurance
8 policies that specifically provide coverage for commercial
9 transportation services.

10 (11) In an accident or claims coverage investigation, a
11 commercial transportation services provider or its insurer must
12 cooperate with a private passenger automobile insurance policy
13 insurer and other insurers that are involved in the claims coverage
14 investigation to facilitate the exchange of information, including
15 the provision of (a) dates and times at which an accident occurred
16 that involved a participating driver and (b) within ten business days
17 after receiving a request, a copy of the provider's electronic record
18 showing the precise times that the participating driver logged on and
19 off the provider's digital network or software application on the day
20 the accident or other loss occurred. The commercial transportation
21 services provider or its insurer must retain all data,
22 communications, or documents related to insurance coverage or
23 accident details for a period of not less than the applicable
24 statutes of limitation, plus two years from the date of an accident
25 to which those records pertain.

26 (12) This section does not modify or abrogate any otherwise
27 applicable insurance requirement set forth in this title.

28 (13) After July 1, 2016, an insurance company regulated under
29 this title may not deny an otherwise covered claim arising
30 exclusively out of the personal use of the private passenger
31 automobile solely on the basis that the insured, at other times, used
32 the private passenger automobile covered by the policy to provide
33 commercial transportation services.

34 (14) If an insurer for a commercial transportation services
35 provider makes a payment for a claim covered under comprehensive
36 coverage or collision coverage, the commercial transportation
37 services provider must cause its insurer to issue the payment
38 directly to the business repairing the vehicle or jointly to the
39 owner of the vehicle and the primary lienholder on the covered
40 vehicle.

1 (15)(a) To be eligible for securing a primary automobile
2 insurance policy under this section, a commercial transportation
3 services provider must make the following disclosures to a
4 prospective driver in the prospective driver's terms of service:

5 WHILE OPERATING ON THE DIGITAL NETWORK OR SOFTWARE APPLICATION OF
6 THE COMMERCIAL TRANSPORTATION SERVICES PROVIDER, YOUR PRIVATE
7 PASSENGER AUTOMOBILE INSURANCE POLICY MIGHT NOT AFFORD LIABILITY,
8 UNDERINSURED MOTORIST, PERSONAL INJURY PROTECTION, COMPREHENSIVE, OR
9 COLLISION COVERAGE, DEPENDING ON THE TERMS OF THE POLICY.

10 IF THE VEHICLE THAT YOU PLAN TO USE TO PROVIDE COMMERCIAL
11 TRANSPORTATION SERVICES FOR OUR COMPANY HAS A LIEN AGAINST IT, YOU
12 MUST NOTIFY THE LIENHOLDER THAT YOU WILL BE USING THE VEHICLE FOR
13 COMMERCIAL TRANSPORTATION SERVICES THAT MAY VIOLATE THE TERMS OF YOUR
14 CONTRACT WITH THE LIENHOLDER.

15 (b) The prospective driver must acknowledge the terms of service
16 electronically or by signature.

17 **Sec. 28.** RCW 81.68.015 and 2009 c 557 s 1 are each amended to
18 read as follows:

19 (1) This chapter does not apply to corporations or persons, their
20 lessees, trustees, receivers, or trustees appointed by any court
21 whatsoever insofar as they own, control, operate, or manage taxicabs,
22 hotel buses, school buses, or any other carrier that does not come
23 within the term "auto transportation company" as defined in RCW
24 81.68.010.

25 (2) This chapter does not apply to persons operating motor
26 vehicles when operated wholly within the limits of incorporated
27 cities or towns, and for a distance not exceeding three road miles
28 beyond the corporate limits of the city or town in Washington in
29 which the original starting point of the vehicle is located, and
30 which operation either alone or in conjunction with another vehicle
31 or vehicles is not a part of any journey beyond the three-mile limit.

32 (3) This chapter does not apply to commuter ride sharing or ride
33 sharing for persons with special transportation needs in accordance
34 with RCW 46.74.010, so long as the ride-sharing operation does not
35 compete with or infringe upon comparable service actually being
36 provided before the initiation of the ride-sharing operation by an
37 existing auto transportation company certificated under this chapter.

1 (4) This chapter does not apply to a service carrying passengers
2 for compensation over any public highway in this state between fixed
3 termini or over a regular route if the commission finds, with or
4 without a hearing, that the service does not serve an essential
5 transportation purpose, is solely for recreation, and would not
6 adversely affect the operations of the holder of a certificate under
7 this chapter, and that exemption from this chapter is otherwise in
8 the public interest. Companies providing these services must,
9 however, obtain a permit under chapter 81.70 RCW.

10 (5) This chapter does not apply to a service carrying passengers
11 for compensation over any public highway in this state between fixed
12 termini or over a regular route if the commission finds, with or
13 without a hearing, that the service is provided pursuant to a
14 contract with a state agency, or funded by a grant issued by the
15 department of transportation, and that exemption from this chapter is
16 otherwise in the public interest. Companies providing these services
17 must, however, obtain a permit under chapter 81.70 RCW.

18 (6) This chapter does not apply to transportation network
19 companies, drivers, or transportation network company vehicles under
20 chapter 46.--- RCW (the new chapter created in section 30 of this
21 act).

22 NEW SECTION. Sec. 29. RCW 48.177.010 is recodified as a section
23 in chapter 46.---

 RCW (the new chapter created in section 30 of this
24 act).

25 NEW SECTION. Sec. 30. Sections 10 through 26 of this act
26 constitute a new chapter in Title 46 RCW.

27 NEW SECTION. Sec. 31. (1) Sections 4 through 9 of this act
28 (related to industrial insurance) take effect January 1, 2023.

29 (2) Sections 13 and 22 of this act (related to the department of
30 licensing) take effect March 1, 2023."

31 Correct the title.

EFFECT: (1) Amends the definition of "driver" to specify that for all purposes of state and local law, including Title 48 (insurance), Title 49 (labor regulations), Title 50A (family and medical leave), Title 50B (long term care), Title 51 (workers compensation), a driver is not an employee if certain factors are met. Specifies that the

party asserting that the factors are not met bears the burden of proof.

(2) Decreases the minimum per trip fee for trips outside of cities with a population of over 600,000, from \$5.00 to \$3.00. Clarifies the rates that apply for miles and minutes driven outside cities with a population of over 600,000.

(3) Changes the date when transportation network companies (TNCs) must begin collecting the \$0.15 per trip fee to July 1, 2024, rather than 90 days after the effective date of the bill. Removes provisions requiring the Department of Labor and Industries (L&I) to notify the Department of Licensing (DOL) if a TNC fails to collect and remit the \$0.15 fee.

(4) Requires the L&I to select, through a competitive process within four months of the effective date of the bill, the entity that will provide services through the Drivers Resource Center (DRC), rather than requiring the Governor to make the selection.

(5) Requires the TNCs and the DRC to make good faith efforts to reach an agreement within 120 days of the effective date of the bill and provides a process for reaching agreement, including binding arbitration.

(6) Excludes certain conduct from the DRC deactivation appeals process (discrimination, harassment, assault, fraud, impaired driving, and other categories in an agreement between the TNC and DRC).

(7) Provides adjustment of workers' compensation premiums for TNCs pursuant to department rules, rather than by the rate of inflation.

(8) Removes the provision providing paid family and medical leave to drivers.

(9) Removes provisions establishing vehicle standards.

(10) Removes the provision limiting joint and several liability of TNCs for injury to persons or property resulting from a driver.

(11) Removes provisions related to the DOL imposing penalties for noncompliance with certain statewide regulatory standards.

(12) Removes the provision prohibiting TNCs and drivers from taking adverse actions against passengers in certain situations.

(13) Removes the provisions making violations of the statewide standards Consumer Protection Act violations.

(14) Removes the requirement for the Attorney General's office to maintain a toll-free number for passenger complaints and maintain a website to inform passengers of their rights.

(15) Requires underinsured motorist insurance in the amount of \$100,000 per person and \$300,000 per accident, rather than eliminating the \$1M amount requirement.

(16) Requires TNCs to make certain records available for two years, rather than three years.

(17) Delays the effective date for workers' compensation provisions to January 1, 2023.

(18) Delays the effective date for provisions related to the DOL to March 1, 2023.

(19) Makes other technical and clarifying language changes.

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