

SHB 2076 - H AMD 1151

By Representative Berry

ADOPTED AS AMENDED 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 and sections 2 through 5 and 7 of this act unless the context
9 clearly requires otherwise.

10 (a) "Account deactivation" means one or more of the following
11 actions with respect to an individual driver or group of drivers that
12 is implemented by a transportation network company and lasts for more
13 than three consecutive days:

14 (i) Blocking access to the transportation network company driver
15 platform;

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

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

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

24 (c) "Department" means the department of labor and industries.

25 (d) "Digital network" means any online-enabled application,
26 website, or system offered or used by a transportation network
27 company that enables the prearrangement of rides between drivers and
28 passengers.

29 (e) "Dispatch location" means the location of the driver at the
30 time the driver accepts a trip request through the driver platform.

1 (f) "Dispatch platform time" means the time a driver spends
2 traveling from a dispatch location to a passenger pick-up location.
3 Dispatch platform time ends when a passenger cancels a trip or the
4 driver begins the trip through the driver platform. A driver cannot
5 simultaneously be engaged in dispatch platform time and passenger
6 platform time for the same transportation network company. For shared
7 rides, dispatch platform time means the time a driver spends
8 traveling from the first dispatch location to the first passenger
9 pick-up location.

10 (g) "Dispatched trip" means the provision of transportation by a
11 driver for a passenger through the use of a transportation network
12 company's application dispatch system.

13 (h) "Driver" has the same meaning as "commercial transportation
14 services provider driver" in RCW 48.177.005. Except as otherwise
15 specified in this act, for purposes of this title and Titles 48, 50,
16 50A, 50B, and 51 RCW, and any orders, regulations, administrative
17 policies, or opinions of any state or local agency, board, division,
18 or commission, pursuant to those titles, a driver is not an employee
19 or agent of a transportation network company if the following factors
20 are met:

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

25 (ii) The transportation network company may not terminate the
26 contract of the driver for not accepting a specific transportation
27 service request;

28 (iii) The transportation network company does not contractually
29 prohibit the driver from performing services through other
30 transportation network companies except while performing services
31 through the transportation network company's online-enabled
32 application or platform during dispatch platform time and passenger
33 platform time; and

34 (iv) The transportation network company does not contractually
35 prohibit the driver from working in any other lawful occupation or
36 business.

37 Notwithstanding any state or local law to the contrary, any party
38 seeking to establish that the factors in this subsection (1)(h) are
39 not met bears the burden of proof. A driver for purposes of this
40 section shall not include any person ultimately and finally

1 determined to be an "employee" within the meaning of section 2(3) of
2 the national labor relations act, 29 U.S.C. Sec. 152(3).

3 (i) "Driver platform" means the driver-facing application
4 dispatch system software or any online-enabled application service,
5 website, or system, used by a driver, or which enables services to be
6 delivered to a driver that enables the prearrangement of passenger
7 trips for compensation.

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

19 (k) "Driver resource center fund" or "fund" means the dedicated
20 fund created in section 2 of this act, the sole purpose of which is
21 to administer funds collected from transportation network companies
22 to provide services, support, and benefits to drivers.

23 (l) "Network services" means services related to the
24 transportation of passengers through the driver platform that are
25 provided by a driver while logged in to the driver platform,
26 including services provided during available platform time, dispatch
27 platform time, and passenger platform time.

28 (m) "Passenger" has the same meaning as "commercial
29 transportation services provider passenger" in RCW 48.177.005.

30 (n) "Passenger drop-off location" means the location of a
31 driver's vehicle when the passenger leaves the vehicle.

32 (o) "Passenger pick-up location" means the location of the
33 driver's vehicle at the time the driver starts the trip in the driver
34 platform.

35 (p) "Passenger platform miles" means all miles driven during
36 passenger platform time as recorded in a transportation network
37 company's driver platform.

38 (q) "Passenger platform time" means the period of time when the
39 driver is transporting one or more passengers on a trip. For shared
40 rides, passenger platform time means the period of time commencing

1 when the first passenger enters the driver's vehicle until the time
2 when the last passenger exits the driver's vehicle.

3 (r) "Personal vehicle" has the same meaning as "personal vehicle"
4 in RCW 48.177.005.

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

13 (t) "Tips" means a verifiable sum to be presented by a passenger
14 as a gift or gratuity in recognition of service performed for the
15 passenger by the driver receiving the tip.

16 (u) "Transportation network company" has the same meaning as
17 defined in RCW 46.04.652. A transportation network company does not
18 provide for hire transportation service.

19 (2) A driver is only covered by this section to the extent that
20 the driver provides network services within the state of Washington.

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

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

35 (4)(a) Beginning December 31, 2022, a transportation network
36 company shall ensure that a driver's total compensation is not less
37 than the standard set forth in (a)(i), (ii), or (iii) of this
38 subsection (4).

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

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

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

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

6 (A) \$0.34 per passenger platform minute and \$1.17 per passenger
7 platform mile; or

8 (B) A minimum of \$3.00 per dispatched trip.

9 (iii) For all trips originating elsewhere and terminating in
10 cities with a population of more than 600,000:

11 (A) For all passenger platform time spent within the city on that
12 trip and for all passenger platform miles driven in the city on that
13 trip the compensation standard under (a)(i) of this subsection
14 applies.

15 (B) For all passenger platform time spent outside the city on
16 that trip and for all passenger platform miles driven outside the
17 city on that trip the compensation standard under (a)(ii) of this
18 subsection applies.

19 (b) Beginning September 30, 2022, and on each following September
20 30th, the department shall calculate adjusted per mile and per minute
21 amounts and per trip minimums by increasing the current year's per
22 mile and per minute amounts and per trip minimums by the rate of
23 increase of the state minimum wage, calculated to the nearest cent.
24 The adjusted amount calculated under this section takes effect on the
25 following January 1st.

26 (c) For shared rides, the per trip minimums in (a)(i) and (ii) of
27 this subsection shall apply only to the entirety of the shared ride,
28 and not on the basis of the individual passenger's trip within the
29 shared ride.

30 (5)(a) For the purposes of this section, a dispatched trip
31 includes:

32 (i) A dispatched trip in which the driver transports the
33 passenger to the passenger drop-off location;

34 (ii) A dispatched trip canceled after two minutes by a passenger
35 or the transportation network company unless cancellation is due to
36 driver conduct, or no cancellation fee is charged to the passenger;

37 (iii) A dispatched trip that is canceled by the driver for good
38 cause consistent with company policy; and

39 (iv) A dispatched trip where the passenger does not appear at the
40 passenger pick-up location within five minutes.

1 (b) A transportation network company may exclude time and miles
2 if doing so is reasonably necessary to remedy or prevent fraudulent
3 use of the transportation network company's online-enabled
4 application or platform.

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

8 (b) Amounts charged to a passenger and remitted to the driver for
9 tolls, fees, or surcharges incurred by a driver during a trip must
10 not be included in calculating compensation for purposes of
11 subsection (4) of this section.

12 (c)(i) Beginning January 1, 2023, except as required by law, a
13 transportation network company may only deduct compensation when the
14 driver expressly authorizes the deduction in writing and does so in
15 advance for a lawful purpose. Any authorization by a driver must be
16 voluntary and knowing.

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

20 (iii) Neither the transportation network company nor any person
21 acting in the interest of the transportation network company may
22 derive any financial profit or benefit from any of the deductions
23 under this section. For the purposes of this section:

24 (A) Reasonable interest charged by the transportation network
25 company or any person acting in the interest of a transportation
26 network company, for a loan or credit extended to the driver, is not
27 considered to be of financial benefit to the transportation network
28 company or person acting in the interest of a transportation network
29 company; and

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

33 (7)(a) Beginning January 1, 2023, a transportation network
34 company shall provide each driver with a written notice of rights
35 established by this section in a form and manner sufficient to inform
36 drivers of their rights under this section. The notice of rights
37 shall provide information on:

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

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

3 (iii) The right to seek legal action or file a complaint with the
4 department for violation of the requirements of this section,
5 including a transportation network company's failure to pay the
6 minimum per minute rate or per mile rate, or a transportation network
7 company's retaliation against a driver or other person for engaging
8 in an activity protected by this section.

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

15 (8) Beginning December 31, 2022, within 24 hours of completion of
16 each dispatched trip, a transportation network company must transmit
17 an electronic receipt to the driver that contains the following
18 information for each unique trip, or portion of a unique trip,
19 covered by this section:

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

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

22 (c) Rate or rates of pay, including but not limited to the rate
23 per minute, rate per mile, percentage of passenger fare, and any
24 applicable price multiplier or variable pricing policy in effect for
25 the trip;

26 (d) Tip compensation;

27 (e) Gross payment;

28 (f) Net payment after deductions, fees, tolls, surcharges, lease
29 fees, or other charges; and

30 (g) Itemized deductions or fees, including any toll, surcharge,
31 commission, lease fees, and other charges.

32 (9) Beginning January 1, 2023, a transportation network company
33 shall make driver per trip receipts available in a downloadable
34 format, such as a comma-separated values file or PDF file, via
35 smartphone application or online web portal for a period of two years
36 from the date the transportation network company provided the receipt
37 to the driver.

38 (10) Beginning January 1, 2023, on a weekly basis, the
39 transportation network company shall provide written notice to the
40 driver that contains the following information for trips, or a

1 portion of a trip, that is covered by this section and which occurred
2 in the prior week:

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

4 (b) Total mileage driven by the driver during passenger platform
5 time;

6 (c) The driver's total tip compensation;

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

12 (e) The driver's net payment after deductions, fees, tolls,
13 surcharges, lease fees, or other charges; and

14 (f) Itemized deductions or fees, including all tolls, surcharges,
15 commissions, lease fees, and other charges, from the driver's
16 payment.

17 (11) Beginning January 1, 2023, within 24 hours of a trip's
18 completion, a transportation network company must transmit an
19 electronic receipt to the passenger, for on trip time, on behalf of
20 the driver that lists:

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

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

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

31 (d) The driver's first name;

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

33 (f) The total passenger-paid tips.

34 (12)(a) Beginning July 1, 2024, transportation network companies
35 shall collect and remit a \$0.15 per trip fee to the driver resource
36 center fund, created in section 2 of this act, for the driver
37 resource center to support the driver community. The remittance under
38 this subsection is a pass-through of passenger fares and shall not be
39 considered a transportation network company's funding of the driver
40 resource center. Passenger fares paid include each individual trip

1 portion on shared trips. The remittances to the fund must be made on
2 a quarterly basis.

3 (b) Beginning September 30, 2024, and on each following September
4 30th, the department shall calculate an adjusted per trip fee by
5 adjusting the current amount by the rate of inflation. The adjusted
6 amounts must be calculated to the nearest cent using the consumer
7 price index for urban wage earners and clerical workers, CPI-W, or a
8 successor index, for the 12 months prior to each September 1st as
9 calculated by the United States department of labor. Each adjusted
10 amount calculated under this subsection takes effect on the following
11 January 1st.

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

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

24 (b) The transportation network company may require written
25 authorization to be submitted in electronic format from the driver
26 resource center.

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

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

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

38 (f) Upon request by a transportation network company, the driver
39 resource center shall reimburse the transportation network company

1 for the costs associated with deduction and remittance. The
2 department shall adopt rules to calculate the reimbursable costs.

3 (14) Each transportation network company shall submit to the
4 fund, with its remittance under subsection (12) of this section, a
5 report detailing the number of trips in the previous quarter and the
6 total amount of the surcharge charged to customers. The first payment
7 and accounting is due on the 30th day of the quarter following the
8 imposition of the surcharge. Failure to remit payments by the
9 deadlines is deemed a delinquency and the transportation network
10 company is subject to penalties and interest as follows:

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

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

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

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

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

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

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

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

8 (A) Related to an allegation of discrimination, harassment,
9 including sexual harassment or harassment due to someone's membership
10 in a protected class, or physical or sexual assault, or willful or
11 knowing commitment of fraud;

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

15 (C) Any other categories the transportation network company and
16 the driver resource center may agree to as part of the agreement
17 under this subsection.

18 (iii) A transportation network company shall enter into an
19 agreement with the driver resource center regarding the driver
20 account deactivation appeals process for eligible account
21 deactivations. Any agreement must be approved by the department. The
22 department may approve an agreement only if the agreement contains
23 the provisions in (a)(iv) of this subsection.

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

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

30 (B) Notification, as required by (d) of this subsection, to
31 drivers of their right to representation by the driver resource
32 center at the time of the eligible account deactivation;

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

1 (D) A good faith, informal resolution process that is committed
2 to efficient resolution of conflicts regarding eligible account
3 deactivations within 30 days of the transportation network company
4 being notified that the driver contests the explanation offered by
5 the company;

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

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

19 (G) Agreement by the transportation network company that, for
20 eligible account deactivations in which the driver or transportation
21 network company elect private arbitration in lieu of the formal
22 process outlined in (a)(iv)(E) of this subsection (15), the
23 transportation network company shall offer the driver the opportunity
24 to have the eligible deactivation adjudicated under the just cause
25 standard outlined in (a)(iv)(E) of this subsection.

26 (b) A transportation network company that enters into an
27 agreement with the driver resource center shall reach agreement
28 through the following steps:

29 (i)(A) For a transportation network company operating a digital
30 network in the state of Washington as of the effective date of this
31 section, the driver resource center and transportation network
32 company must make good faith efforts to reach an agreement within 120
33 days of an organization being selected as the driver resource center
34 under section 2 of this act.

35 (B) For a transportation network company who begins operating a
36 digital network in the state of Washington after an organization has
37 been selected as the driver resource center under section 2 of this
38 act, the driver resource center and transportation network company
39 must make good faith efforts to reach an agreement within 120 days of

1 the transportation network company beginning operation of a digital
2 network in the state of Washington.

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

6 (iii) After mediation lasting no more than two months has been
7 exhausted and no resolution has been reached, then the parties will
8 proceed to binding arbitration before a panel of arbitrators
9 consisting of one arbitrator selected by the driver resource center,
10 one arbitrator selected by the transportation network company, and a
11 third arbitrator selected by the other two. If the two selected
12 arbitrators cannot agree to the third arbitrator within 10 days, then
13 the third arbitrator shall be determined from a list of seven
14 arbitrators with experience in labor disputes or interest arbitration
15 designated by the American arbitration association. A coin toss shall
16 determine which side strikes the first name. Thereafter the other
17 side shall strike a name. The process will continue until only one
18 name remains, who shall be the third arbitrator. Alternatively, the
19 driver resource center and the transportation network company may
20 agree to a single arbitrator.

21 (iv) The arbitrators must submit their decision, based on
22 majority rule, within 60 days of the panel or arbitrator being
23 chosen.

24 (v) The decision of the majority of arbitrators is final and
25 binding and will then be submitted to the director of the department
26 for final approval.

27 (c) In reviewing any agreement between a transportation network
28 company and the driver resource center, under (a) of this subsection,
29 the department shall review the agreement to ensure that its content
30 is consistent with this subsection and the public policy goals set
31 forth in this subsection. The department shall consider in its review
32 both qualitative and quantitative effects of the agreement and how
33 the agreement comports with the state policies set forth in this
34 section. In conducting a review, the record shall not be limited to
35 the submissions of the parties nor to the terms of the proposed
36 agreement and the department shall have the right to conduct public
37 hearings and request additional information from the parties,
38 provided that such information: (i) Is relevant for determining
39 whether the agreement complies with this subsection; and (ii) does
40 not contain either parties' confidential, proprietary, or privileged

1 information, or any individual's personal identifying information
2 from the parties. The department may approve or reject a proposed
3 agreement, and may require the parties to submit a revised proposal
4 on all or particular parts of the proposed agreement. If the
5 department rejects an agreement, it shall set forth its reasoning in
6 writing and shall suggest ways the parties may remedy the failures.
7 Absent good cause, the department shall issue a written determination
8 regarding its approval or rejection within 60 days of submission of
9 the agreement.

10 (d)(i) For any account deactivation, the transportation network
11 company shall provide notification to the driver, at the time of
12 deactivation, that the driver may have the right to representation by
13 the driver resource center to appeal the account deactivation.

14 (ii) A transportation network company must provide any driver
15 whose account is subject to an account deactivation between the
16 effective date of this section and the effective date of the
17 agreement the contact information of the driver resource center and
18 notification that the driver may have the right to appeal the account
19 deactivation with representation by the driver resource center.

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

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

23 (1) The legislature recognizes that providing education and
24 outreach to drivers regarding their rights and obligations furthers
25 the state's interest in having a vibrant knowledgeable work force and
26 safe and satisfied consumers. The legislature therefore intends to
27 create a way of providing education, outreach, and support to workers
28 who, because of the nature of their work, do not have access to such
29 support through traditional avenues.

30 (2) The driver resource center fund is created in the custody of
31 the state treasurer. All moneys received from the remittance in
32 section 1(12) of this act must be deposited into the fund.

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

37 (4) The department may make expenditures from the fund for the
38 following purposes:

1 (a) Services provided by the driver resource center, as defined
2 in section 1 of this act, to drivers and administrative costs of
3 providing such support. The department must distribute funding
4 received by the account, exclusive of the department's administrative
5 costs deducted under (b) of this subsection, to the center on a
6 quarterly basis; and

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

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

14 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.46
15 RCW to read as follows:

16 (1)(a) If a driver files a complaint with the department alleging
17 that a transportation network company failed to provide any
18 compensation amounts due to the driver under section 1 of this act,
19 the department shall investigate the complaint under this section.
20 Unless otherwise resolved, the department shall issue either a
21 citation and notice of assessment or a determination of compliance no
22 later than 60 days after the date on which the department received
23 the compensation-related complaint. The department may extend the
24 time period by providing advance written notice to the driver and the
25 transportation network company setting forth good cause for an
26 extension of the time period and specifying the duration of the
27 extension.

28 (b) The department may not investigate any alleged compensation-
29 related violation that occurred more than three years before the date
30 that the driver filed the compensation-related complaint.

31 (c) The department shall send the citation and notice of
32 assessment or the determination of compliance to both the
33 transportation network company and the driver by service of process
34 or using a method by which the mailing can be tracked or the delivery
35 can be confirmed to their last known addresses. A transportation
36 network company may designate a mailing address of record for
37 service, and additionally may provide an email address to which the
38 department shall direct electronic courtesy copies of mailed
39 correspondence, if such email address is provided.

1 (2) If the department determines that a transportation network
2 company has violated a compensation requirement in section 1 of this
3 act and issues to the transportation network company a citation and
4 notice of assessment, the department may order the transportation
5 network company to pay drivers all compensation owed, including
6 interest of one percent per month on all compensation owed, to the
7 driver. The compensation and interest owed must be calculated from
8 the first date compensation was owed to the driver, except that the
9 department may not order the transportation network company to pay
10 any compensation and interest that were owed more than three years
11 before the date the complaint was filed with the department.

12 (3) If the department determines that the compensation-related
13 violation was a willful violation, and the transportation network
14 company fails to take corrective action, the department also may
15 order the transportation network company to pay the department a
16 civil penalty as specified in (a) of this subsection.

17 (a) A civil penalty for a willful violation shall be not less
18 than \$1,000 or an amount equal to 10 percent of the total amount of
19 unpaid compensation per claimant, whichever is greater. The maximum
20 civil penalty for a willful violation of requirements in section 1 of
21 this act shall be \$20,000 per claimant.

22 (b) The department may not assess a civil penalty if the
23 transportation network company reasonably relied on: (i) A rule
24 related to any requirements in this section; (ii) a written order,
25 ruling, approval, opinion, advice, determination, or interpretation
26 of the director; or (iii) an interpretive or administrative policy
27 issued by the department and filed with the office of the code
28 reviser. In accordance with the department's retention schedule
29 obligations under chapter 40.14 RCW, the department shall maintain a
30 complete and accurate record of all written orders, rulings,
31 approvals, opinions, advice, determinations, and interpretations for
32 purposes of determining whether a transportation network company is
33 immune from civil penalties under this subsection (3)(b).

34 (c) The department shall waive any civil penalty assessed against
35 a transportation network company under this section if the
36 transportation network company is not a repeat willful violator, and
37 the director determines that the transportation network company has
38 provided payment to the driver of all compensation that the
39 department determined that the transportation network company owed to
40 the driver, including interest, within 30 days of the transportation

1 network company's receipt of the citation and notice of assessment
2 from the department.

3 (d) The department may waive or reduce at any time a civil
4 penalty assessed under this section if the director determines that
5 the transportation network company paid all compensation and interest
6 owed to a driver.

7 (e) The department shall deposit civil penalties paid under this
8 section in the supplemental pension fund established under RCW
9 51.44.033.

10 (4) Upon payment by a transportation network company, and
11 acceptance by a driver, of all compensation and interest assessed by
12 the department in a citation and notice of assessment issued to the
13 transportation network company, the fact of such payment by the
14 transportation network company, and of such acceptance by the driver,
15 shall: (a) Constitute a full and complete satisfaction by the
16 transportation network company of all specific requirements addressed
17 in the citation and notice of assessment; and (b) bar the driver from
18 initiating or pursuing any court action or other judicial or
19 administrative proceeding, including arbitration, based on the
20 specific requirements addressed in the citation and notice of
21 assessment. The citation and notice of assessment shall include a
22 notification and summary of the specific requirements of this
23 subsection.

24 (5) The applicable statute of limitations for civil actions is
25 tolled during the department's investigation of a driver's complaint
26 against a transportation network company. For the purposes of this
27 subsection, the department's investigation begins on the date the
28 driver files the complaint with the department and ends when: (a) The
29 complaint is finally determined through a final and binding citation
30 and notice of assessment or determination of compliance; or (b) the
31 department notifies the transportation network company and the driver
32 in writing that the complaint has been otherwise resolved or that the
33 driver has elected to terminate the department's administrative
34 action under this section.

35 (6) A person, firm, or corporation aggrieved by a citation and
36 notice of assessment or a determination of compliance issued by the
37 department under this section or the assessment of a civil penalty
38 due to a determination of status as a repeat willful violator may
39 appeal the citation and notice of assessment, the determination of
40 compliance, or the assessment of a civil penalty to the director by

1 filing a notice of appeal with the director within 30 days of the
2 department's service, as provided in subsection (1) of this section,
3 on the aggrieved party of the citation and notice of assessment, the
4 determination of compliance, or the assessment of a civil penalty. A
5 citation and notice of assessment, a determination of compliance, or
6 an assessment of a civil penalty not appealed within 30 days is final
7 and binding, and not subject to further appeal.

8 (7) A notice of appeal filed with the director under this section
9 shall stay the effectiveness of the citation and notice of
10 assessment, the determination of compliance, or the assessment of a
11 civil penalty pending final review of the appeal by the director as
12 provided for in chapter 34.05 RCW.

13 (8) Upon receipt of a notice of appeal, the director shall assign
14 the hearing to an administrative law judge of the office of
15 administrative hearings to conduct the hearing and issue an initial
16 order. The hearing and review procedures shall be conducted in
17 accordance with chapter 34.05 RCW, and the standard of review by the
18 administrative law judge of an appealed citation and notice of
19 assessment, an appealed determination of compliance, or an appealed
20 assessment of a civil penalty shall be de novo. Any party who seeks
21 to challenge an initial order shall file a petition for
22 administrative review with the director within 30 days after service
23 of the initial order. The director shall conduct administrative
24 review in accordance with chapter 34.05 RCW.

25 (9) The director shall issue all final orders after appeal of the
26 initial order. The final order of the director is subject to judicial
27 review in accordance with chapter 34.05 RCW.

28 (10) Orders that are not appealed within the time period
29 specified in this section and chapter 34.05 RCW are final and
30 binding, and not subject to further appeal.

31 (11) Absent good cause, a transportation network company that
32 fails to allow adequate inspection of records in an investigation by
33 the department under this chapter within a reasonable time period may
34 not use such records in any appeal under this section to challenge
35 the correctness of any determination by the department of wages owed
36 or penalties assessed.

37 (12) A driver who has filed a complaint under this section with
38 the department may elect to terminate the department's administrative
39 action, thereby preserving any private right of action, if any
40 exists, by providing written notice to the department within 10

1 business days after the driver's receipt of the department's citation
2 and notice of assessment.

3 (13) If the driver elects to terminate the department's
4 administrative action: (a) The department shall immediately
5 discontinue its action against the transportation network company;
6 (b) the department shall vacate a citation and notice of assessment
7 already issued by the department to the transportation network
8 company; and (c) the citation and notice of assessment, and any
9 related findings of fact or conclusions of law by the department, and
10 any payment or offer of payment by the transportation network company
11 of the compensation, including interest, assessed by the department
12 in the citation and notice of assessment, shall not be admissible in
13 any court action or other judicial or administrative proceeding.

14 (14) Nothing in this section shall be construed to limit or
15 affect: (a) The right of any driver to pursue any judicial,
16 administrative, or other action available with respect to a
17 transportation network company; (b) the right of the department to
18 pursue any judicial, administrative, or other action available with
19 respect to a driver that is identified as a result of a complaint for
20 a violation of section 1 of this act; or (c) the right of the
21 department to pursue any judicial, administrative, or other action
22 available with respect to a transportation network company in the
23 absence of a complaint for a violation of section 1 of this act. For
24 purposes of this subsection, "driver" means a driver other than a
25 driver who has filed a complaint with the department and who
26 thereafter has elected to terminate the department's administrative
27 action as provided in subsection (1) of this section.

28 (15) After a final order is issued under this section, and served
29 as provided in subsection (1) of this section, if a transportation
30 network company defaults in the payment of: (a) Any compensation
31 determined by the department to be owed to a driver, including
32 interest; or (b) any civil penalty ordered by the department under
33 this section, the director may file with the clerk of any county
34 within the state a warrant in the amount of the payment plus any
35 filing fees. The clerk of the county in which the warrant is filed
36 shall immediately designate a superior court cause number for the
37 warrant, and the clerk shall cause to be entered in the judgment
38 docket under the superior court cause number assigned to the warrant,
39 the name of the transportation network company mentioned in the
40 warrant, the amount of payment due plus any filing fees, and the date

1 when the warrant was filed. The aggregate amount of the warrant as
2 docketed becomes a lien upon the title to, and interest in, all real
3 and personal property of the transportation network company against
4 whom the warrant is issued, the same as a judgment in a civil case
5 docketed with the superior court clerk. The sheriff shall proceed
6 upon the warrant in all respects and with like effect as prescribed
7 by law with respect to execution or other process issued against
8 rights or property upon judgment in a court of competent
9 jurisdiction. The warrant so docketed is sufficient to support the
10 issuance of writs of garnishment in favor of the state in a manner
11 provided by law in case of judgment, wholly or partially unsatisfied.
12 The clerk of the court is entitled to a filing fee which will be
13 added to the amount of the warrant. A copy of the warrant shall be
14 served on the transportation network company, as provided in
15 subsection (1) of this section, within three days of filing with the
16 clerk.

17 (16) (a) The director may issue to any person, firm, corporation,
18 other entity, municipal corporation, political subdivision of the
19 state, public corporation, or any agency of the state, a notice and
20 order to withhold and deliver property of any kind when he or she has
21 reason to believe that there is in the possession of the person,
22 firm, corporation, other entity, municipal corporation, political
23 subdivision of the state, public corporation, or agency of the state,
24 property that is or will become due, owing, or belonging to a
25 transportation network company upon whom a notice of assessment has
26 been served by the department for payments or civil penalties due to
27 the department. The effect of a notice and order is continuous from
28 the date the notice and order is first made until the liability out
29 of which the notice and order arose is satisfied or becomes
30 unenforceable because of lapse of time. The department shall release
31 the notice and order when the liability out of which the notice and
32 order arose is satisfied or becomes unenforceable by reason of lapse
33 of time and shall notify the person against whom the notice and order
34 was made that the notice and order has been released.

35 (b) The notice and order to withhold and deliver must be served
36 by the sheriff of the county or by the sheriff's deputy, by certified
37 mail, return receipt requested, or by the director. A person, firm,
38 corporation, other entity, municipal corporation, political
39 subdivision of the state, public corporation, or agency of the state
40 upon whom service has been made shall answer the notice within 20

1 days exclusive of the day of service, under oath and in writing, and
2 shall make true answers to the matters inquired of in the notice and
3 order. Upon service of the notice and order, if the party served
4 possesses any property that may be subject to the claim of the
5 department, the party shall promptly deliver the property to the
6 director. The director shall hold the property in trust for
7 application on the transportation network company's indebtedness to
8 the department, or for return without interest, in accordance with a
9 final determination of a petition for review. In the alternative, the
10 party shall furnish a good and sufficient surety bond satisfactory to
11 the director conditioned upon final determination of liability. If a
12 party served and named in the notice fails to answer the notice
13 within the time prescribed in this section, the court may render
14 judgment by default against the party for the full amount claimed by
15 the director in the notice, together with costs. If a notice is
16 served upon a transportation network company and the property subject
17 to it is compensation, the transportation network company may assert
18 in the answer all exemptions provided for by chapter 6.27 RCW to
19 which the compensation earner is entitled.

20 (c) As an alternative to the methods of service described in this
21 section, the department may electronically serve a financial
22 institution with a notice and order to withhold and deliver by
23 providing a list of its outstanding warrants, except those for which
24 a payment agreement is in good standing, to the department of
25 revenue. The department of revenue may include the warrants provided
26 by the department in a notice and order to withhold and deliver
27 served under RCW 82.32.235(3). A financial institution that is served
28 with a notice and order to withhold and deliver under this subsection
29 (16)(c) must answer the notice within the time period applicable to
30 service under RCW 82.32.235(3). The department and the department of
31 revenue may adopt rules to implement this subsection (16)(c).

32 (17)(a) In addition to the procedure for collection of
33 compensation owed, including interest, and civil penalties as set
34 forth in this section, the department may recover compensation owed,
35 including interest, and civil penalties assessed under RCW 49.48.083
36 in a civil action brought in a court of competent jurisdiction of the
37 county where the violation is alleged to have occurred.

38 (b) The department may use the procedures under this section to
39 foreclose compensation liens established under chapter 60.90 RCW.
40 When the department is foreclosing on a compensation lien, the date

1 the compensation lien was originally filed shall be the date by which
2 priority is determined, regardless of the date the warrant is filed
3 under this section.

4 (18) Whenever any transportation network company quits business,
5 sells out, exchanges, or otherwise disposes of the transportation
6 network company's business or stock of goods, any person who becomes
7 a successor to the business becomes liable for the full amount of any
8 outstanding citation and notice of assessment or penalty against the
9 transportation network company's business under this chapter if, at
10 the time of the conveyance of the business, the successor has: (a)
11 Actual knowledge of the fact and amount of the outstanding citation
12 and notice of assessment; or (b) a prompt, reasonable, and effective
13 means of accessing and verifying the fact and amount of the
14 outstanding citation and notice of assessment from the department. If
15 the citation and notice of assessment or penalty is not paid in full
16 by the transportation network company within 10 days of the date of
17 the sale, exchange, or disposal, the successor is liable for the
18 payment of the full amount of the citation and notice of assessment
19 or penalty, and payment thereof by the successor must, to the extent
20 thereof, be deemed a payment upon the purchase price. If the payment
21 is greater in amount than the purchase price, the amount of the
22 difference becomes a debt due the successor from the transportation
23 network company.

24 (19) This section does not affect other collection remedies that
25 are otherwise provided by law.

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

28 (1) If a driver files a complaint with the department alleging a
29 violation of any noncompensation requirement of section 1 (7) through
30 (10) and (12) through (14) of this act, the department shall
31 investigate the complaint under this section.

32 (a) The department may not investigate any such alleged violation
33 that occurred more than three years before the date that the driver
34 filed the complaint or prior to this law going into effect.

35 (b) If a driver files a timely complaint with the department, the
36 department will investigate the complaint and issue either a citation
37 assessing a civil penalty or a closure letter within 60 days after
38 the date on which the department received the complaint, unless the
39 complaint is otherwise resolved. The department may extend the period

1 by providing advance written notice to the driver and the
2 transportation network company setting forth good cause for an
3 extension of the period, and specifying the duration of the
4 extension.

5 (c) The department shall send notice of either a citation and
6 notice of assessment or a citation assessing a civil penalty or the
7 closure letter to both the transportation network company and the
8 driver by service of process or by United States mail using a method
9 by which delivery of such written notice to the transportation
10 network company can be tracked and confirmed. A transportation
11 network company may designate a mailing address of record for
12 service, and additionally may provide an email address to which the
13 department shall direct electronic courtesy copies of mailed
14 correspondence, if such email address is provided.

15 (2) If the department's investigation finds that the driver's
16 allegation cannot be substantiated, the department shall issue a
17 closure letter to the driver and the transportation network company
18 detailing such finding.

19 (3) If the department determines that the violation was a willful
20 violation, and the transportation network company fails to take
21 corrective action, the department may order the transportation
22 network company to pay the department a civil penalty as specified in
23 (a) of this subsection.

24 (a) A citation assessing a civil penalty for a willful violation
25 will be \$1,000 for each willful violation. For a repeat willful
26 violator, the citation assessing a civil penalty will not be less
27 than \$2,000 for each repeat willful violation per claimant, but no
28 greater than \$20,000 for each repeat willful violation per claimant.

29 (b) The department may not issue a citation assessing a civil
30 penalty if the transportation network company reasonably relied on:

31 (i) A written order, ruling, approval, opinion, advice,
32 determination, or interpretation of the director; or (ii) an
33 interpretive or administrative policy issued by the department and
34 filed with the office of the code reviser. In accordance with the
35 department's retention schedule obligations under chapter 40.14 RCW,
36 the department shall maintain a complete and accurate record of all
37 written orders, rulings, approvals, opinions, advice, determinations,
38 and interpretations for purposes of determining whether a
39 transportation network company is immune from civil penalties under
40 this subsection (3)(b).

1 (c) The department may, at any time, waive or reduce a civil
2 penalty assessed under this section if the director determines that
3 the transportation network company has taken corrective action to
4 resolve the violation.

5 (d) The department shall deposit civil penalties paid under this
6 section in the supplemental pension fund established under RCW
7 51.44.033.

8 (e) If the department determines that a transportation network
9 company has violated section 1(12) of this act, and issues to the
10 transportation network company a citation and notice of assessment,
11 the department may order the transportation network company to pay
12 all owed remittance payments as required under section 1(12) of this
13 act. The department shall deposit all owed remittance payments in the
14 driver resource center fund.

15 (4) For purposes of this section, the following definitions
16 apply:

17 (a) "Repeat willful violator" means any transportation network
18 company that has been the subject of a final and binding citation for
19 a willful violation of one or more rights under this chapter and all
20 applicable rules, within three years of the date of issuance of the
21 most recent citation for a willful violation of one or more such
22 rights.

23 (b) "Willful" means a knowing and intentional action that is
24 neither accidental nor the result of a bona fide dispute.

25 (5) A person, firm, or corporation aggrieved by a citation
26 assessing a civil penalty issued by the department under this section
27 may appeal the citation assessing a civil penalty to the director by
28 filing a notice of appeal with the director within 30 days of the
29 department's issuance of the citation assessing a civil penalty. A
30 citation assessing a civil penalty not appealed within 30 days is
31 final and binding, and not subject to further appeal.

32 (6) A notice of appeal filed with the director under this section
33 stays the effectiveness of the citation assessing a civil penalty
34 pending final review of the appeal by the director as provided for in
35 chapter 34.05 RCW.

36 (7) Upon receipt of a notice of appeal, the director shall assign
37 the hearing to an administrative law judge of the office of
38 administrative hearings to conduct the hearing and issue an initial
39 order. The hearing and review procedures must be conducted in
40 accordance with chapter 34.05 RCW, and the standard of review by the

1 administrative law judge of an appealed citation assessing a civil
2 penalty must be de novo. Any party who seeks to challenge an initial
3 order shall file a petition for administrative review with the
4 director within 30 days after service of the initial order. The
5 director shall conduct administrative review in accordance with
6 chapter 34.05 RCW.

7 (8) The director shall issue all final orders after appeal of the
8 initial order. The final order of the director is subject to judicial
9 review in accordance with chapter 34.05 RCW.

10 (9) Orders that are not appealed within the period specified in
11 this section and chapter 34.05 RCW are final and binding, and not
12 subject to further appeal.

13 (10) Absent good cause, a transportation network company that
14 fails to allow adequate inspection of records in an investigation by
15 the department under this section within a reasonable time period may
16 not use such records in any appeal under such rules to challenge the
17 correctness of any determination by the department of penalties
18 assessed.

19 (11) Collections of unpaid citations assessing civil penalties
20 will be handled pursuant to the procedures outlined in RCW 49.48.086.

21 (12) If the department determines that a transportation network
22 company has violated the requirements in section 1(12) of this act to
23 collect and remit the established fee, and issues to the
24 transportation network company a citation and notice of assessment,
25 the department may order the transportation network company to pay
26 all owed remittance payments as required under section 1(12) of this
27 act. The department shall deposit all unpaid remittance amounts into
28 the driver resource center fund established in section 2 of this act.

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

31 (1) It is unlawful for a transportation network company to
32 interfere with, restrain, or deny the exercise of any driver right
33 provided under or in connection with section 1 of this act and RCW
34 49.46.210(5). This means a transportation network company may not use
35 a driver's exercise of any of the rights provided under section 1 of
36 this act and RCW 49.46.210(5) as a factor in any action that
37 adversely affects the driver's use of the transportation network.

38 (2) It is unlawful for a transportation network company to adopt
39 or enforce any policy that counts the use of earned paid sick time

1 for a purpose authorized under RCW 49.46.210(1) (b) and (c) as time
2 off the platform that may lead to or result in temporary or permanent
3 deactivation by the transportation network company against the
4 driver.

5 (3) It is unlawful for a transportation network company to take
6 any adverse action against a driver because the driver has exercised
7 their rights provided under section 1 of this act and RCW
8 49.46.210(5). Such rights include, but are not limited to: Filing an
9 action, or instituting or causing to be instituted any proceeding
10 under or related to section 1 of this act and RCW 49.46.210(5), or
11 testifying or intending to testify in any such proceeding related to
12 any rights provided under section 1 of this act and RCW 49.46.210(5).

13 (4) Adverse action means any action taken or threatened by a
14 transportation network company against a driver for the driver's
15 exercise of rights under section 1 of this act and RCW 49.46.210(5).

16 (5) A driver who believes that he or she was subject to
17 retaliation by a transportation network company for the exercise of
18 any driver right under section 1 of this act and RCW 49.46.210(5) may
19 file a complaint with the department within 180 days of the alleged
20 retaliatory action. The department may, at its discretion, extend the
21 180-day period on recognized equitable principles or because of
22 extenuating circumstances beyond the control of the department. The
23 department may extend the 180-day period when there is a
24 preponderance of evidence that the transportation network company has
25 concealed or misled the driver regarding the alleged retaliatory
26 action.

27 (6) If a driver files a timely complaint with the department
28 alleging retaliation, the department shall investigate the complaint
29 and issue either a citation and notice of assessment or a
30 determination of compliance within 90 days after the date on which
31 the department received the complaint, unless the complaint is
32 otherwise resolved. The department may extend the period by providing
33 advance written notice to the driver and the transportation network
34 company setting forth good cause for an extension of the period, and
35 specifying the duration of the extension.

36 (7) The department may consider a complaint to be otherwise
37 resolved when the driver and the transportation network company reach
38 a mutual agreement to remedy any retaliatory action, or the driver
39 voluntarily and on the driver's own initiative withdraws the
40 complaint.

1 (8) If the department's investigation finds that the driver's
2 allegation of retaliation cannot be substantiated, the department
3 shall issue a determination of compliance to the driver and the
4 transportation network company detailing such finding.

5 (9) If the department's investigation finds that the
6 transportation network company retaliated against the driver, and the
7 complaint is not otherwise resolved, the department may, at its
8 discretion, notify the transportation network company that the
9 department intends to issue a citation and notice of assessment, and
10 may provide up to 30 days after the date of such notification for the
11 transportation network company to take corrective action to remedy
12 the retaliatory action. If the complaint is not otherwise resolved,
13 then the department shall issue a citation and notice of assessment.
14 The department's citation and notice of assessment may:

15 (a) Order the transportation network company to make payable to
16 the driver earnings that the driver did not receive due to the
17 transportation network company's retaliatory action, including
18 interest of one percent per month on all earnings owed. The earnings
19 and interest owed will be calculated from the first date earnings
20 were owed to the driver;

21 (b) Order the transportation network company to restore the
22 contract of the driver, unless otherwise prohibited by law;

23 (c) Order the transportation network company to cease using any
24 policy that counts the use of earned paid sick time as time off the
25 platform or an adverse action against the driver;

26 (d) For the first violation, order the transportation network
27 company to pay the department a civil penalty established in
28 subsection (15) of this section; and

29 (e) For a repeat violation, order the transportation network
30 company to pay the department up to double the civil penalty
31 established in subsection (15) of this section.

32 (10) The department shall send the citation and notice of
33 assessment or determination of compliance to both the transportation
34 network company and driver by service of process or using a method by
35 which the mailing can be tracked or the delivery can be confirmed to
36 their last known addresses. A transportation network company may
37 designate a mailing address of record for service, and additionally
38 may provide an email address to which the department shall direct
39 electronic courtesy copies of mailed correspondence, if such email
40 address is provided.

1 (11) During an investigation of the driver's retaliation
2 complaint, if the department discovers information suggesting alleged
3 violations by the transportation network company of the driver's
4 other rights under this chapter, and all applicable rules, the
5 department may investigate and take appropriate enforcement action
6 without requiring the driver to file a new or separate complaint. In
7 the event the department so expands an investigation, it shall
8 provide reasonable notice to the transportation network company that
9 it is doing so. If the department determines that the transportation
10 network company violated additional rights of the driver under this
11 chapter, and all applicable rules, the transportation network company
12 may be subject to additional enforcement actions for the violation of
13 such rights. If the department discovers information alleging the
14 transportation network company retaliated against or otherwise
15 violated rights of other drivers under this chapter, and all
16 applicable rules, the department may launch further investigation
17 under this chapter, and all applicable rules, without requiring
18 additional complaints to be filed.

19 (12) The department may prioritize retaliation investigations as
20 needed to allow for timely resolution of complaints.

21 (13) Nothing in this section impedes the department's ability to
22 investigate under the authority prescribed in RCW 49.48.040.

23 (14) Nothing in this section precludes a driver's right to pursue
24 private legal action, if any exists.

25 (15) If the department's investigation finds that a
26 transportation network company retaliated against a driver, pursuant
27 to the procedures outlined in this section, the department may order
28 the transportation network company to pay the department a civil
29 penalty. A civil penalty for a transportation network company's
30 retaliatory action will not be less than \$1,000 or an amount equal to
31 10 percent of the total amount of unpaid earnings attributable to the
32 retaliatory action per claimant, whichever is greater. The maximum
33 civil penalty for a transportation network company's retaliatory
34 action shall be \$20,000 per claimant for the first violation, and
35 \$40,000 for each repeat violation.

36 (16) The department may, at any time, waive or reduce any civil
37 penalty assessed against a transportation network company under this
38 section if the department determines that the transportation network
39 company has taken corrective action to remedy the retaliatory action.

1 (17) The department will deposit civil penalties paid under this
2 section in the supplemental pension fund established under RCW
3 51.44.033.

4 (18) Collections of amounts owed for unpaid citations and notices
5 of assessment, as detailed in this section, will be handled pursuant
6 to the procedures outlined in RCW 49.48.086.

7 (19) A person, firm, or corporation aggrieved by a citation and
8 notice of assessment or a determination of compliance may, within 30
9 days after the date of such determination, submit a request for
10 reconsideration to the department setting forth the grounds for
11 seeking such reconsideration, or submit an appeal to the director
12 pursuant to the procedures outlined in subsection (22) of this
13 section. If the department receives a timely request for
14 reconsideration, the department shall either accept the request or
15 treat the request as a notice of appeal.

16 (20) If a request for reconsideration is accepted, the department
17 shall send notice of the request for reconsideration to the
18 transportation network company and the driver. The department shall
19 determine if there are any valid reasons to reverse or modify the
20 department's original decision to issue a citation and notice of
21 assessment or determination of compliance within 30 days of receipt
22 of such request. The department may extend this period by providing
23 advance written notice to the driver and transportation network
24 company setting forth good cause for an extension of the period, and
25 specifying the duration of the extension. After reviewing the
26 reconsideration, the department shall either:

27 (a) Notify the driver and the transportation network company that
28 the citation and notice of assessment or determination of compliance
29 is affirmed; or

30 (b) Notify the driver and the transportation network company that
31 the citation and notice of assessment or determination of compliance
32 has been reversed or modified.

33 (21) A request for reconsideration submitted to the department
34 shall stay the effectiveness of the citation and notice of assessment
35 or the determination of compliance pending the reconsideration
36 decision by the department.

37 (22)(a) Within 30 days after the date the department issues a
38 citation and notice of assessment or a determination of compliance,
39 or within 30 days after the date the department issues its decision
40 on the request for reconsideration, a person, firm, or corporation

1 aggrieved by a citation and notice of assessment or a determination
2 of compliance may file with the director a notice of appeal.

3 (b) A notice of appeal filed with the director under this section
4 shall stay the effectiveness of the citation and notice of assessment
5 or the determination of compliance pending final review of the appeal
6 by the director as provided for in chapter 34.05 RCW.

7 (c) Upon receipt of a notice of appeal, the director shall assign
8 the hearing to an administrative law judge of the office of
9 administrative hearings to conduct the hearing and issue an initial
10 order. The hearing and review procedures shall be conducted in
11 accordance with chapter 34.05 RCW, and the standard of review by the
12 administrative law judge of an appealed citation and notice of
13 assessment or determination of compliance shall be de novo. Any party
14 who seeks to challenge an initial order shall file a petition for
15 administrative review with the director within 30 days after service
16 of the initial order. The director shall conduct administrative
17 review in accordance with chapter 34.05 RCW.

18 (23) If a request for reconsideration is not submitted to the
19 department within 30 days after the date of the original citation and
20 notice of assessment or determination of compliance, and a person,
21 firm, or corporation aggrieved by a citation and notice of assessment
22 or determination of compliance did not submit an appeal to the
23 director, then the citation and notice of assessment or determination
24 of compliance is final and binding, and not subject to further
25 appeal.

26 (24) The director shall issue all final orders after appeal of
27 the initial order. The final order of the director is subject to
28 judicial review in accordance with chapter 34.05 RCW.

29 (25) The director's orders that are not appealed within the time
30 period specified in this section and chapter 34.05 RCW are final and
31 binding, and not subject to further appeal.

32 (26) Absent good cause, a transportation network company that
33 fails to allow adequate inspection of records in an investigation by
34 the department under this section within a reasonable time period may
35 not use such records in any appeal under such rules to challenge the
36 correctness of any determination by the department.

37 **PART II**

38 **PAID SICK LEAVE**

1 **Sec. 6.** RCW 49.46.210 and 2019 c 236 s 3 are each amended to
2 read as follows:

3 (1) Beginning January 1, 2018, except as provided in RCW
4 49.46.180, every employer shall provide each of its employees paid
5 sick leave as follows:

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

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

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

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

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

27 (c) An employee is authorized to use paid sick leave for absences
28 that qualify for leave under the domestic violence leave act, chapter
29 49.76 RCW.

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

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

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

39 (g) For absences exceeding three days, an employer may require
40 verification that an employee's use of paid sick leave is for an

1 authorized purpose. If an employer requires verification,
2 verification must be provided to the employer within a reasonable
3 time period during or after the leave. An employer's requirements for
4 verification may not result in an unreasonable burden or expense on
5 the employee and may not exceed privacy or verification requirements
6 otherwise established by law.

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

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

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

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

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

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

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

40 (c) A spouse;

1 (d) A registered domestic partner;

2 (e) A grandparent;

3 (f) A grandchild; or

4 (g) A sibling.

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

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

11 (5) (a) The definitions in this subsection apply to this
12 subsection:

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

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

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

28 (iv) For purposes of drivers, "family member" means any of the
29 following:

30 (A) A child, including a biological, adopted, or foster child,
31 stepchild, or a child to whom the driver stands in loco parentis, is
32 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 a driver or the driver's spouse or
36 registered domestic partner, or a person who stood in loco parentis
37 when the driver 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 (b) Beginning January 1, 2023, a transportation network company
4 must provide to each driver operating on its driver platform
5 compensation for earned paid sick time as required by this subsection
6 and subject to the provisions of this subsection. A driver shall
7 accrue one hour of earned paid sick time for every 40 hours of
8 passenger platform time worked.

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

12 (d) For each hour of earned paid sick time used, a driver shall
13 be paid the driver's average hourly compensation.

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

18 (f) A driver may carry over up to 40 hours of unused earned paid
19 sick time to the next calendar year. If a driver carries over unused
20 earned paid sick time to the following year, accrual of earned paid
21 sick time in the subsequent year must be in addition to the hours
22 accrued in the previous year and carried over.

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

27 (h) A driver is entitled to use earned paid sick time for the
28 following reasons:

29 (i) An absence resulting from the driver's mental or physical
30 illness, injury, or health condition; to accommodate the driver's
31 need for medical diagnosis, care, or treatment of a mental or
32 physical illness, injury, or health condition; or an employee's need
33 for preventive medical care;

34 (ii) To allow the driver to provide care for a family member with
35 a mental or physical illness, injury, or health condition; care of a
36 family member who needs medical diagnosis, care, or treatment of a
37 mental or physical illness, injury, or health condition; or care for
38 a family member who needs preventive medical care;

39 (iii) When the driver's child's school or place of care has been
40 closed by order of a public official for any health-related reason;

1 (iv) For absences for which an employee would be entitled for
2 leave under RCW 49.76.030; and

3 (v) During a deactivation or other status that prevents the
4 driver from performing network services on the transportation network
5 company's platform, unless the deactivation or status is due to a
6 verified allegation of sexual assault or physical assault perpetrated
7 by the driver.

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

13 (j) Drivers may use accrued days of earned paid sick time in
14 increments of a minimum of four or more hours. Drivers are entitled
15 to request four or more hours of earned paid sick time for immediate
16 use, including consecutive days of use. Drivers are not entitled to
17 use more than eight hours of earned paid sick time within a single
18 calendar day.

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

23 (l) A transportation network company shall not request or require
24 reasonable verification of a driver's qualifying illness except as
25 would be permitted to be requested of an employee under subsection
26 (1)(g) of this section. If a transportation network company requires
27 verification pursuant to this subsection, the transportation network
28 company must compensate the driver for the requested hours or days of
29 earned paid sick time no later than the driver's next regularly
30 scheduled date of compensation after satisfactory verification is
31 provided.

32 (m) If a driver accepts an offer of prearranged services for
33 compensation from a transportation network company during the four-
34 hour period or periods for which the driver requested earned paid
35 sick time, a transportation network company may determine that the
36 driver did not use earned paid sick time for an authorized purpose.

37 (n) A transportation network company shall provide each driver
38 with:

1 (i) Written notification of the current rate of average hourly
2 compensation while a passenger is in the vehicle during the most
3 recent calendar month for use of earned paid sick time;

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

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

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

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

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

19 (o) A transportation network company may not adopt or enforce any
20 policy that counts the use of earned paid sick time as an absence
21 that may lead to or result in any action that adversely affects the
22 driver's use of the transportation network.

23 (p) A transportation network company may not take any action
24 against a driver that adversely affects the driver's use of the
25 transportation network due to his or her exercise of any rights under
26 this subsection including the use of earned paid sick time.

27 (q) The department may adopt rules to implement this subsection.

28 NEW SECTION. Sec. 7. A new section is added to chapter 49.46
29 RCW to read as follows:

30 (1) If a driver files a complaint with the department alleging
31 that the transportation network company failed to provide the driver
32 with earned paid sick time as provided in RCW 49.46.210, the
33 department shall investigate the complaint as an alleged violation of
34 a compensation-related requirement of this act.

35 (2) When the department's investigation results in a finding that
36 the transportation network company failed to provide the driver with
37 earned paid sick time accrual, use, or carryover during an ongoing
38 contractual relationship, the driver may elect to:

1 (a) Receive full access to the balance of accrued earned paid
2 sick time hours unlawfully withheld by the transportation network
3 company, based on a calculation of one hour of earned paid sick time
4 for every 40 hours of passenger platform time worked; or

5 (b) Receive payment from the transportation network company at
6 their average hourly compensation for each hour of earned paid sick
7 time that the driver would have used or been reasonably expected to
8 use, whichever is greater, during the period of noncompliance, not to
9 exceed an amount the driver would have otherwise accrued. The driver
10 will receive full access to the balance of accrued earned paid sick
11 time unlawfully withheld by the transportation network company, less
12 the number of earned paid sick time paid out to the driver pursuant
13 to this subsection.

14 (3) For a driver whose contract with the transportation network
15 company is terminated or who has not recorded passenger platform time
16 on the transportation network company's driver platform for 365 days
17 or more, when the department's investigation results in a finding
18 that the transportation network company failed to provide the driver
19 with earned paid sick time accrual, use, or carryover, the driver may
20 elect to receive payment at their average hourly compensation for
21 earned paid sick time that the driver would have earned or been
22 reasonably expected to use, whichever is greater, during the period
23 of noncompliance, receive reinstatement of the balance of earned paid
24 sick time, or receive a combination of payment and reinstatement from
25 the transportation network company for all earned paid sick time that
26 would have accrued during the period of noncompliance, unless such
27 reinstatement is prohibited by law.

28 (4) The department's notice of assessment, pursuant to RCW
29 49.48.083, may order the transportation network company to provide
30 the driver any combination of reinstatement and payment of accrued,
31 unused earned paid sick time assessed pursuant to subsection (2) or
32 (3) of this section, unless such reinstatement is prohibited by law.

33 (5) For purposes of this section, a transportation network
34 company found to be in noncompliance cannot cap the driver's
35 carryover of earned paid sick time at 40 hours to the following year
36 for each year of noncompliance.

37 (6) The department may promulgate rules and regulations in
38 accordance with this section.

39 **PART III**

1 **INDUSTRIAL INSURANCE**

2 **Sec. 8.** RCW 51.12.020 and 2015 c 236 s 4 are each amended to
3 read as follows:

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

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

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

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

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

20 (5) Sole proprietors or partners.

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

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

26 (8)(a) Except as otherwise provided in (b) of this subsection,
27 any bona fide officer of a corporation voluntarily elected or
28 voluntarily appointed in accordance with the articles of
29 incorporation or bylaws of the corporation, who at all times during
30 the period involved is also a bona fide director, and who is also a
31 shareholder of the corporation. Only such officers who exercise
32 substantial control in the daily management of the corporation and
33 whose primary responsibilities do not include the performance of
34 manual labor are included within this subsection.

35 (b) Alternatively, a corporation that is not a "public company"
36 as defined in RCW 23B.01.400 may exempt eight or fewer bona fide
37 officers, who are voluntarily elected or voluntarily appointed in
38 accordance with the articles of incorporation or bylaws of the
39 corporation and who exercise substantial control in the daily

1 management of the corporation, from coverage under this title without
2 regard to the officers' performance of manual labor if the exempted
3 officer is a shareholder of the corporation, or may exempt any number
4 of officers if all the exempted officers are related by blood within
5 the third degree or marriage. If a corporation that is not a "public
6 company" elects to be covered under (~~subsection (8)~~) (a) of this
7 subsection, the corporation's election must be made on a form
8 prescribed by the department and under such reasonable rules as the
9 department may adopt.

10 (c) Determinations respecting the status of persons performing
11 services for a corporation shall be made, in part, by reference to
12 Title 23B RCW and to compliance by the corporation with its own
13 articles of incorporation and bylaws. For the purpose of determining
14 coverage under this title, substance shall control over form, and
15 mandatory coverage under this title shall extend to all workers of
16 this state, regardless of honorary titles conferred upon those
17 actually serving as workers.

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

20 (9) Services rendered by a musician or entertainer under a
21 contract with a purchaser of the services, for a specific engagement
22 or engagements when such musician or entertainer performs no other
23 duties for the purchaser and is not regularly and continuously
24 employed by the purchaser. A purchaser does not include the leader of
25 a group or recognized entity who employs other than on a casual basis
26 musicians or entertainers.

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

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

36 (12) Services performed by a booth renter. However, a person
37 exempted under this subsection may elect coverage under RCW
38 51.32.030.

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

1 (a) Management of the company is vested in its members, and the
2 members for whom exemption is sought would qualify for exemption
3 under subsection (5) of this section were the company a sole
4 proprietorship or partnership; or

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

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

12 ~~(15))~~ For hire vehicle operators under chapter 46.72 RCW who own
13 or lease the for hire vehicle, chauffeurs under chapter 46.72A RCW
14 who own or lease the limousine, and operators of taxicabs under
15 chapter 81.72 RCW who own or lease the taxicab. An owner or lessee
16 may elect coverage in the manner provided by RCW 51.32.030.

17 **Sec. 9.** RCW 51.08.070 and 2008 c 102 s 2 are each amended to
18 read as follows:

19 (1) "Employer" means any person, body of persons, corporate or
20 otherwise, and the legal representatives of a deceased employer, all
21 while engaged in this state in any work covered by the provisions of
22 this title, by way of trade or business, or who contracts with one or
23 more workers, the essence of which is the personal labor of such
24 worker or workers. Or as an exception to the definition of employer,
25 persons or entities are not employers when they contract or agree to
26 remunerate the services performed by an individual who meets the
27 tests set forth in ((subsections (1) through (6) of)) RCW 51.08.195
28 (1) through (6) or the separate tests set forth in RCW 51.08.181 for
29 work performed that requires registration under chapter 18.27 RCW or
30 licensing under chapter 19.28 RCW.

31 (2) Notwithstanding subsection (1) of this section, and for
32 purposes of this title only, a transportation network company, as
33 defined in section 1 of this act, shall have the same rights and
34 obligations of an "employer" under this title with respect to a
35 driver, as defined in section 1 of this act, only while the driver is
36 engaged in passenger platform time and dispatch platform time.

37 **Sec. 10.** RCW 51.08.180 and 2008 c 102 s 3 are each amended to
38 read as follows:

1 (1) "Worker" means every person in this state who is engaged in
2 the employment of an employer under this title, whether by way of
3 manual labor or otherwise in the course of his or her employment;
4 also every person in this state who is engaged in the employment of
5 or who is working under an independent contract, the essence of which
6 is his or her personal labor for an employer under this title,
7 whether by way of manual labor or otherwise, in the course of his or
8 her employment, or as an exception to the definition of worker, a
9 person is not a worker if he or she meets the tests set forth in
10 subsections (1) through (6) of RCW 51.08.195 or the separate tests
11 set forth in RCW 51.08.181 for work performed that requires
12 registration under chapter 18.27 RCW or licensing under chapter 19.28
13 RCW: PROVIDED, That a person is not a worker for the purpose of this
14 title, with respect to his or her activities attendant to operating a
15 truck which he or she owns, and which is leased to a common or
16 contract carrier.

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

23 NEW SECTION. Sec. 11. A new section is added to chapter 51.16
24 RCW to read as follows:

25 (1) Beginning January 1, 2023, the department shall assess
26 premiums for transportation network companies, as defined in section
27 1 of this act, in accordance with RCW 51.16.035 and this section, for
28 workers' compensation coverage applicable to drivers, as defined in
29 section 1 of this act, while the driver is engaged in passenger
30 platform time and dispatch platform time, as those terms are defined
31 in section 1 of this act.

32 (2) For the purposes of calculating the premium for drivers under
33 subsection (1) of this section, the department shall multiply the
34 total number of hours spent by drivers in passenger platform time and
35 dispatch platform time on the transportation network company's driver
36 platform by the rates established for taxicab companies. The
37 department may subsequently adjust premiums in accordance with
38 department rules.

1 (3) Transportation network companies, not qualifying as a self-
2 insurer, shall insure with the state and shall, on or before the last
3 day of January, April, July, and October of each year thereafter,
4 furnish the department with a true and accurate statement of the
5 hours for which drivers, as defined in section 1 of this act, were
6 engaged in passenger platform time and dispatch platform time on the
7 transportation network company's driver platform during the preceding
8 calendar quarter and the total amount paid to such drivers engaged in
9 passenger platform time on the transportation network company's
10 driver platform during the preceding calendar quarter, and shall pay
11 its premium thereon to the appropriate fund. Premiums for a calendar
12 quarter, whether reported or not, shall become due and delinquent on
13 the day immediately following the last day of the month following the
14 calendar quarter. The sufficiency of such statement shall be subject
15 to the approval of the director: PROVIDED, That the director may in
16 his or her discretion and for the effective administration of this
17 title require a transportation network company in individual
18 instances to furnish a supplementary report containing the name of
19 each individual driver, his or her hours engaged in passenger
20 platform time and dispatch platform time on the transportation
21 network company's driver platform, and his or her compensation:
22 PROVIDED FURTHER, That the department may promulgate rules and
23 regulations in accordance with chapter 34.05 RCW to establish other
24 reporting periods and payment due dates in lieu of reports and
25 payments following each calendar quarter, and may also establish
26 terms and conditions for payment of premiums and assessments based on
27 estimated passenger platform time and dispatch platform time on the
28 transportation network company's driver platform, with such payments
29 being subject to approval as to sufficiency of the estimated
30 passenger platform time and dispatch platform time on the
31 transportation network company's driver platform by the department,
32 and also subject to appropriate periodic adjustments made by the
33 department based on actual passenger platform time and dispatch
34 platform time on the transportation network company's driver
35 platform.

36 (4) The department may adopt rules to carry out the purposes of
37 this section, including rules providing for alternative reporting
38 requirements.

39 (5) This section does not apply to any worker who is not a
40 driver, and who is employed by the transportation network company.

1 For those workers the processes for determining coverage, calculating
2 premiums, reporting requirements, reporting periods, and payment due
3 dates are subject to the provisions of this title that apply
4 generally to employers and workers.

5 **Sec. 12.** RCW 51.16.060 and 1985 c 315 s 1 are each amended to
6 read as follows:

7 ((Every)) Except as provided in section 11 of this act, every
8 employer not qualifying as a self-insurer, shall insure with the
9 state and shall, on or before the last day of January, April, July
10 and October of each year thereafter, furnish the department with a
11 true and accurate payroll for the period in which workers were
12 employed by it during the preceding calendar quarter, the total
13 amount paid to such workers during such preceding calendar quarter,
14 and a segregation of employment in the different classes established
15 pursuant to this title, and shall pay its premium thereon to the
16 appropriate fund. Premiums for a calendar quarter, whether reported
17 or not, shall become due and delinquent on the day immediately
18 following the last day of the month following the calendar quarter.
19 The sufficiency of such statement shall be subject to the approval of
20 the director: PROVIDED, That the director may in his or her
21 discretion and for the effective administration of this title require
22 an employer in individual instances to furnish a supplementary report
23 containing the name of each individual worker, his or her hours
24 worked, his or her rate of pay and the class or classes in which such
25 work was performed: PROVIDED FURTHER, That in the event an employer
26 shall furnish the department with four consecutive quarterly reports
27 wherein each such quarterly report indicates that no premium is due
28 the department may close the account: PROVIDED FURTHER, That the
29 department may promulgate rules and regulations in accordance with
30 chapter 34.05 RCW to establish other reporting periods and payment
31 due dates in lieu of reports and payments following each calendar
32 quarter, and may also establish terms and conditions for payment of
33 premiums and assessments based on estimated payrolls, with such
34 payments being subject to approval as to sufficiency of the estimated
35 payroll by the department, and also subject to appropriate periodic
36 adjustments made by the department based on actual payroll: AND
37 PROVIDED FURTHER, That a temporary help company which provides
38 workers on a temporary basis to its customers shall be considered the
39 employer for purposes of reporting and paying premiums and

1 assessments under this title according to the appropriate rate
2 classifications as determined by the department: PROVIDED, That the
3 employer shall be liable for paying premiums and assessments, should
4 the temporary help company fail to pay the premiums and assessments
5 under this title.

6 NEW SECTION. **Sec. 13.** A new section is added to chapter 51.04
7 RCW to read as follows:

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

14 (2) A transportation network company's compliance with this
15 chapter satisfies any obligation under any county, city, town, or
16 other municipal corporation ordinance requiring compensation or
17 benefits for workplace injuries or occupational disease.

18 **PART IV**

19 **STATEWIDE REGULATORY REQUIREMENTS**

20 NEW SECTION. **Sec. 14.** The purpose of this chapter is to:
21 Provide statewide uniform regulation for transportation network
22 companies within the state of Washington, encourage technological
23 innovation, and preserve and enhance access to important
24 transportation options for residents and visitors to Washington
25 state.

26 NEW SECTION. **Sec. 15.** The definitions in this section apply
27 throughout this chapter unless the context clearly requires
28 otherwise.

29 (1) "Department" means the department of licensing.

30 (2) "Digital network" means any online-enabled application,
31 website, or system offered or used by a transportation network
32 company that enables the prearrangement of rides between drivers and
33 passengers.

34 (3) "Driver" has the meaning provided in section 1 of this act.

35 (4) "Network services" has the meaning provided in section 1 of
36 this act.

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

6 (6) "Prearranged ride" has the same meaning provided in RCW
7 48.177.005.

8 (7) "Transportation network company" has the meaning provided in
9 section 1 of this act.

10 (8) "Transportation network company vehicle" has the same meaning
11 as "personal vehicle" in RCW 48.177.005.

12 NEW SECTION. **Sec. 16.** (1) A transportation network company or
13 driver is not a common carrier, motor carrier, or any other carrier
14 as defined in RCW 81.80.010, and does not provide for hire
15 transportation service, commuter ride sharing, taxicab, auto
16 transportation company services, or metropolitan public
17 transportation services pursuant to chapter 35.58, 46.72, 46.73,
18 81.68, or 81.72 RCW.

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

21 NEW SECTION. **Sec. 17.** (1) A person must first obtain a permit
22 from the department to operate a transportation network company in
23 Washington state, except that any transportation network company
24 operating in the state before the effective date of this section may
25 continue operating until the department creates a permit process and
26 sets a registration deadline.

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

31 NEW SECTION. **Sec. 18.** Any transportation network company
32 operating in Washington state must maintain an agent for service of
33 process in the state.

34 NEW SECTION. **Sec. 19.** (1) Before a passenger enters a
35 transportation network company vehicle, the transportation network
36 company must provide, on behalf of the driver, either the fare for

1 the prearranged ride or the option to receive an estimated fare for
2 the prearranged ride.

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

9 NEW SECTION. **Sec. 20.** A transportation network company's
10 digital network or website must display a photograph of the driver
11 and the license plate number of the transportation network company
12 vehicle.

13 NEW SECTION. **Sec. 21.** A transportation network company must
14 require that any motor vehicle that a transportation network company
15 driver will use to provide prearranged rides is not more than 15
16 years old as determined by the model year of the vehicle.

17 NEW SECTION. **Sec. 22.** (1) A transportation network company must
18 implement a zero tolerance policy regarding a driver's activities
19 while accessing the transportation network company's digital network.
20 The zero tolerance policy must address the use of drugs or alcohol
21 while a driver is providing prearranged rides or is logged in to the
22 transportation network company's digital network but is not providing
23 prearranged rides.

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

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

33 NEW SECTION. **Sec. 23.** (1) Before allowing an individual to
34 accept prearranged ride requests as a driver through a transportation
35 network company's digital network and annually thereafter:

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

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

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

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

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

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

20 (a) Has had more than three moving violations in the prior three-
21 year period, or one of the following major violations in the prior
22 three-year period:

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

24 (ii) Reckless driving pursuant to RCW 46.61.500; or

25 (iii) Driving on a suspended or revoked driver's license pursuant
26 to RCW 46.20.342 or 46.20.345;

27 (b) Has been convicted, within the past seven years, of:

28 (i) Any class A or B felony in Title 9A RCW;

29 (ii) Any violent offense as defined in RCW 9.94A.030 or serious
30 violent offense as defined in RCW 9.94A.030;

31 (iii) Any most serious offense as defined in RCW 9.94A.030; or

32 (iv) Driving under the influence, hit and run, or any other
33 driving-related crime pursuant to RCW 46.61.500 through 46.61.540;

34 (c) Has been convicted of any sex offense as defined in RCW
35 9.94A.030 or is a match in the United States department of justice
36 national sex offender public website;

37 (d) Does not possess a valid driver's license;

38 (e) Does not possess proof of automobile liability insurance for
39 the motor vehicle or vehicles used to provide prearranged rides;

40 (f) Is not at least 20 years of age; or

1 (g) Has not self-certified that he or she is physically and
2 mentally fit to be a transportation network company driver.

3 (3) (a) Subsection (2) (a) and (b) of this section applies to any
4 conviction of any offense committed in another jurisdiction that
5 includes all of the elements of any of the offenses described or
6 defined in subsection (2) (a) and (b) of this section.

7 (b) Any collision where the driver can demonstrate, through the
8 account deactivation appeals process outlined in section 1(15) of
9 this act, that he or she was not at fault for the collision, shall
10 not be considered to be a moving violation under subsection (2) (a) of
11 this section.

12 (c) For purposes of subsection (2) (a) of this section multiple
13 moving violations shall be treated by the transportation network
14 company as a single moving violation if the driver can demonstrate,
15 through the account deactivation appeals process outlined in section
16 1(15) of this act, that the violations arose from a single incident.

17 (4) A transportation network company must establish a clear
18 background check policy consistent with this section that informs
19 drivers of any thresholds for categories of violations and any other
20 factors which will result in a restriction of access to the driver
21 platform.

22 NEW SECTION. **Sec. 24.** A driver may not:

23 (1) Solicit or accept a trip request to provide network services
24 other than a trip request arranged through a transportation network
25 company's digital network;

26 (2) Provide network services for more than 14 consecutive hours
27 in a 24-hour period; or

28 (3) Allow any other individual to use that driver's access to a
29 transportation network company's digital network.

30 NEW SECTION. **Sec. 25.** (1) A transportation network company must
31 adopt a policy of nondiscrimination on the basis of race, color,
32 national origin, religious belief or affiliation, sex, disability,
33 age, sexual orientation, or gender identity with respect to
34 passengers and potential passengers and notify drivers of such
35 policy.

36 (2) A driver must comply with all applicable laws regarding
37 nondiscrimination against transportation network company riders or
38 potential riders on the basis of race, color, national origin,

1 religious belief or affiliation, sex, disability, age, sexual
2 orientation, or gender identity.

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

5 (4) A transportation network company may not impose additional
6 charges for providing services to persons with disabilities because
7 of those disabilities.

8 NEW SECTION. **Sec. 26.** Any safety product, feature, process,
9 policy, standard, or other effort undertaken by a transportation
10 network company, or the provision of equipment by a transportation
11 network company, to further public safety is not an indicia of an
12 employment or agency relationship with a driver.

13 NEW SECTION. **Sec. 27.** A transportation network company must
14 maintain the following records:

15 (1) Individual trip records, except receipts pursuant to section
16 1(9) of this act, for at least three years from the end of the
17 calendar year in which each trip was provided; and

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

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

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

1 NEW SECTION. **Sec. 29.** 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. 30.** The department may adopt rules consistent
6 with and as necessary to carry out this chapter.

7 NEW SECTION. **Sec. 31.** (1) A transportation network company is
8 not vicariously liable for injury to persons or property that results
9 or arises out of the use, operation, or possession of a motor vehicle
10 operating as a transportation network company vehicle while the
11 driver is logged on to the transportation network company's digital
12 network if:

13 (a) There is no negligence under this chapter or criminal
14 wrongdoing under federal or state laws on the part of the
15 transportation network company; and

16 (b) The transportation network company has fulfilled all of its
17 obligations under this chapter with respect to the driver.

18 (2) This section does not alter or reduce the coverage or policy
19 limits of the insurance requirements under RCW 48.177.010 (as
20 recodified by this act).

21 NEW SECTION. **Sec. 32.** A transportation network company shall
22 not, unless based upon a bona fide occupational qualification, refuse
23 to contract with or terminate the contract of a driver based upon
24 age, sex, marital status, sexual orientation, race, creed, color,
25 national origin, citizenship or immigration status, honorably
26 discharged veteran or military status, or the presence of any
27 sensory, mental, or physical disability or the use of a trained guide
28 dog or service animal by a person with a disability.

29 NEW SECTION. **Sec. 33.** (1) Except as provided in subsections (2)
30 and (3) of this section, as of the effective date of this section,
31 the state preempts the field of regulating transportation network
32 companies and drivers. No county, city, town, or other municipal
33 corporation may regulate transportation network companies or drivers,
34 or impose any tax, fee, or other charge, either direct or indirect,
35 on a transportation network company or driver.

1 (2) (a) Except as provided in (b) and (c) of this subsection, a
2 local ordinance or regulation existing on or before January 1, 2022,
3 that imposes a tax, fee, or surcharge on a transportation network
4 company or driver remains in effect at the rate that exists on or
5 before January 1, 2022. The county, city, town, or other municipal
6 corporation may continue to collect that tax, fee, or surcharge, but
7 may not increase the amount of that tax, fee, or surcharge, and may
8 not impose any higher or new taxes, fees, or surcharges. Nothing in
9 this subsection shall be construed to preempt a generally applicable
10 business and occupation tax. This subsection shall apply
11 retroactively and shall preempt any increase in the amount of an
12 existing tax, fee, or surcharge not preempted pursuant to this
13 subsection, or the imposition of any higher or new taxes, fees, or
14 surcharges which occurs between January 1, 2022, and the effective
15 date of this section.

16 (b) Notwithstanding (a) of this subsection, any local ordinance
17 or regulation existing on or before the effective date of this
18 section that imposed a per trip tax, fee, or surcharge for which, at
19 the time the ordinance became effective, the proceeds were to be used
20 in part to fund a driver conflict resolution center, shall be reduced
21 by \$0.15. The county, city, town, or other municipal corporation may
22 continue to collect that tax, fee, or surcharge, but only at the
23 reduced rate and may not increase the amount of that tax, fee, or
24 surcharge, and may not impose any higher or new taxes, fees, or
25 surcharges.

26 (c) Notwithstanding (a) of this subsection, any per ride fee
27 imposed by a local ordinance exempted from preemption under
28 subsection (3)(a) of this section, the proceeds of which are used to
29 offset expenses of enforcing the ordinance, may be adjusted under the
30 following provisions:

31 (i) The city or county demonstrates to the satisfaction of the
32 department that the revenues from the existing per ride fee amount
33 are insufficient to offset the city's or county's cost from
34 enforcement and regulation;

35 (ii) Any increase in the fee amount does not result in an
36 increase of more than 10 percent of the current per ride fee amount;

37 (iii) The total amount expected to be collected under the
38 increased amount will not exceed the city or county's total expected
39 costs; and

1 (iv) The department has not authorized an increase in the per
2 ride fee in the last five fiscal years.

3 (3) (a) A local ordinance or regulation in a city with a
4 population of more than 600,000 or a county with a population of more
5 than 2,000,000, and that existed on or before January 1, 2022, that
6 regulated licensing for transportation network companies and permits
7 for drivers, or the requirements for and processing of applications,
8 certifications, examinations, and background checks for drivers and
9 personal vehicles, remains in effect as the requirements exist on the
10 effective date of this section. The county or city may continue to
11 enforce the ordinance or regulation but may not alter, amend, or
12 implement changes to the ordinance or regulation, or requirements
13 under it, after January 1, 2022, except if such alteration,
14 amendment, or implementation conforms with the requirements of this
15 chapter. This subsection shall apply retroactively to any alteration,
16 amendment, or implementation which occurs between March 10, 2022, and
17 the effective date of this section.

18 (b) Notwithstanding subsection (1) of this section, a local
19 ordinance or regulation in a city with a population of more than
20 600,000 or a county with a population of more than 2,000,000, that
21 existed before January 1, 2022, that is related to requirements
22 covered by sections 1, 7, 11, and 13 of this act and RCW
23 49.46.210(5), 51.08.070, 51.08.180, 51.12.020, and 51.16.060 is
24 preempted as of January 1, 2023. The city may continue to enforce the
25 ordinance between the effective date of this section and January 1,
26 2023, but may not alter, amend, or implement changes to the ordinance
27 or regulation, or requirements under it, after January 1, 2022,
28 except if such alteration, amendment, or implementation conforms with
29 the requirements of this act. This subsection (3)(b) shall apply
30 retroactively to any alteration, amendment, or implementation which
31 occurs between March 10, 2022, and the effective date of this
32 section.

33 (4) Nothing in this chapter shall be interpreted to prevent an
34 airport operator, as defined in RCW 14.08.015, from requiring a
35 transportation network company to enter into a contract or agreement,
36 consistent with the provisions of RCW 14.08.120, governing
37 requirements of the transportation network company on airport
38 property including but not limited to the fees and operational
39 requirements. An airport operator may not impose any requirements
40 through a contract authorized by this section that relate to

1 requirements covered by sections 1, 7, 11, and 13 of this act and RCW
2 49.46.210(5), 51.08.070, 51.08.180, 51.12.020, and 51.16.060.

3 **Sec. 34.** RCW 48.177.010 and 2015 c 236 s 2 are each amended to
4 read as follows:

5 (1)(a) Before being used to provide commercial transportation
6 services, as defined in RCW 48.177.005, every personal vehicle, as
7 defined in RCW 48.177.005, must be covered by a primary automobile
8 insurance policy that specifically covers commercial transportation
9 services. However, the insurance coverage requirements of this
10 section are alternatively satisfied by securing coverage pursuant to
11 chapter 46.72 or 46.72A RCW that covers the personal vehicle being
12 used to provide commercial transportation services and that is in
13 effect twenty-four hours per day, seven days per week. Except as
14 provided in subsection (2) of this section, a commercial
15 transportation services provider, as defined in RCW 48.177.005, must
16 secure this policy for every personal vehicle used to provide
17 commercial transportation services. For purposes of this section, a
18 "primary automobile insurance policy" is not a private passenger
19 automobile insurance policy.

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

26 (i) The primary automobile insurance policy required under this
27 subsection must provide the following coverage during commercial
28 transportation services applicable during the period before a driver
29 accepts a requested ride through a digital network or software
30 application:

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

35 (B) Underinsured motorist coverage to the extent required under
36 RCW 48.22.030; and

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

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

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

6 ~~(B) ((Underinsured motorist coverage in the amount of one million
7 dollars; and~~

8 ~~(C))~~ Personal injury protection coverage to the extent required
9 under RCW 48.22.085 and 48.22.095.

10 (iii) The primary automobile insurance policy required under this
11 subsection must provide underinsured motorist coverage in the amount
12 of \$100,000 per person, \$300,000 per accident from the moment a
13 passenger enters the transportation network company vehicle of a
14 driver until the passenger exits the transportation network company
15 vehicle.

16 (2) (a) As an alternative to the provisions of subsection (1) of
17 this section, ~~((if the office of the insurance commissioner approves~~
18 ~~the offering of an insurance policy that recognizes that a person is~~
19 ~~acting as a driver for a commercial transportation services provider~~
20 ~~and using a personal vehicle to provide commercial transportation~~
21 ~~services,)) a driver may secure a primary automobile insurance policy
22 covering a personal vehicle and providing the same coverage as
23 required in subsection (1) of this section from a lawful admitted or
24 surplus lines insurer. The policy coverage may be in the form of a
25 rider to, or endorsement of, the driver's private passenger
26 automobile insurance policy only if approved as such by the office of
27 the insurance commissioner.~~

28 (b) If the primary automobile insurance policy maintained by a
29 driver to meet the obligation of this section does not provide
30 coverage for any reason, including that the policy lapsed or did not
31 exist, the commercial transportation services provider must provide
32 the coverage required under this section beginning with the first
33 dollar of a claim.

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

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

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

1 (iii) A combination of both the commercial transportation
2 services provider and the driver.

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

7 (4) In addition to the requirements in subsections (1) and (2) of
8 this section, before allowing a person to provide commercial
9 transportation services as a driver, a commercial transportation
10 services provider must provide written proof to the driver that the
11 driver is covered by a primary automobile insurance policy that meets
12 the requirements of this section. Alternatively, if a driver
13 purchases a primary automobile insurance policy as allowed under
14 subsection (2) of this section, the commercial transportation
15 services provider must verify that the driver has done so.

16 (5) A primary automobile insurance policy required under
17 subsection (1) or (2) of this section may be placed with an insurer
18 licensed under this title to provide insurance in the state of
19 Washington or as an eligible surplus line insurance policy as
20 described in RCW 48.15.040, or through a surplus lines insurer that
21 meets the financial requirements as described in RCW 48.15.090 and
22 follows the procurement procedures of RCW 48.15.040.

23 (6) Insurers that write automobile insurance in Washington may
24 exclude any and all coverage afforded under a private passenger
25 automobile insurance policy issued to an owner or operator of a
26 personal vehicle for any loss or injury that occurs while a driver
27 for a commercial transportation services provider is logged in to a
28 commercial transportation services provider's digital network or
29 while a driver provides a prearranged ride. This right to exclude all
30 coverage may apply to any coverage included in a private passenger
31 automobile insurance policy including, but not limited to:

- 32 (a) Liability coverage for bodily injury and property damage;
- 33 (b) Personal injury protection coverage;
- 34 (c) Underinsured motorist coverage;
- 35 (d) Medical payments coverage;
- 36 (e) Comprehensive physical damage coverage; and
- 37 (f) Collision physical damage coverage.

38 (7) Nothing in this section shall be construed to require a
39 private passenger automobile insurance policy to provide primary or
40 excess coverage or a duty to defend for the period of time in which a

1 driver is logged in to a commercial transportation services
2 provider's digital network or software application or while the
3 driver is engaged in a prearranged ride or the driver otherwise uses
4 a vehicle to transport passengers for compensation.

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

13 (9) An exclusion exercised by an insurer in subsection (6) of
14 this section applies to any coverage selected or rejected by a named
15 insured under RCW 48.22.030 and 48.22.085. The purchase of a rider or
16 endorsement by a driver under subsection (2)(a) of this section does
17 not require a separate coverage rejection under RCW 48.22.030 or
18 48.22.085.

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

23 (a) Except as provided otherwise under subsection (2)(c) of this
24 section, if the driver has been matched with a passenger and is
25 traveling to pick up the passenger, or the driver is providing
26 services to a passenger, the commercial transportation services
27 provider that matched the driver and passenger must provide insurance
28 coverage; or

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

35 (11) In an accident or claims coverage investigation, a
36 commercial transportation services provider or its insurer must
37 cooperate with a private passenger automobile insurance policy
38 insurer and other insurers that are involved in the claims coverage
39 investigation to facilitate the exchange of information, including
40 the provision of (a) dates and times at which an accident occurred

1 that involved a participating driver and (b) within ten business days
2 after receiving a request, a copy of the provider's electronic record
3 showing the precise times that the participating driver logged on and
4 off the provider's digital network or software application on the day
5 the accident or other loss occurred. The commercial transportation
6 services provider or its insurer must retain all data,
7 communications, or documents related to insurance coverage or
8 accident details for a period of not less than the applicable
9 statutes of limitation, plus two years from the date of an accident
10 to which those records pertain.

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

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

19 (14) If an insurer for a commercial transportation services
20 provider makes a payment for a claim covered under comprehensive
21 coverage or collision coverage, the commercial transportation
22 services provider must cause its insurer to issue the payment
23 directly to the business repairing the vehicle or jointly to the
24 owner of the vehicle and the primary lienholder on the covered
25 vehicle.

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

30 WHILE OPERATING ON THE DIGITAL NETWORK OR SOFTWARE APPLICATION OF
31 THE COMMERCIAL TRANSPORTATION SERVICES PROVIDER, YOUR PRIVATE
32 PASSENGER AUTOMOBILE INSURANCE POLICY MIGHT NOT AFFORD LIABILITY,
33 UNDERINSURED MOTORIST, PERSONAL INJURY PROTECTION, COMPREHENSIVE, OR
34 COLLISION COVERAGE, DEPENDING ON THE TERMS OF THE POLICY.

35 IF THE VEHICLE THAT YOU PLAN TO USE TO PROVIDE COMMERCIAL
36 TRANSPORTATION SERVICES FOR OUR COMPANY HAS A LIEN AGAINST IT, YOU
37 MUST NOTIFY THE LIENHOLDER THAT YOU WILL BE USING THE VEHICLE FOR
38 COMMERCIAL TRANSPORTATION SERVICES THAT MAY VIOLATE THE TERMS OF YOUR
39 CONTRACT WITH THE LIENHOLDER.

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

3 NEW SECTION. **Sec. 35.** (1) The commissioner for the employment
4 security department shall commence a work group of stakeholders,
5 comprised of equal representation of industry and labor, to study the
6 appropriate application of Titles 50, 50A, and 50B RCW on
7 transportation network companies and drivers in this state.

8 (2) No later than December 1, 2022, and in compliance with RCW
9 43.01.036, the commissioner must submit a report to the governor and
10 the legislature on findings and suggested changes to state law to
11 establish applicable rates and terms by which transportation network
12 companies and drivers participate in relevant state run programs
13 established pursuant to Titles 50, 50A, and 50B RCW.

14 NEW SECTION. **Sec. 36.** RCW 48.177.010 is recodified as a section
15 in chapter 46.--- RCW (the new chapter created in section 37 of this
16 act).

17 NEW SECTION. **Sec. 37.** Sections 14 through 33 of this act
18 constitute a new chapter in Title 46 RCW.

19 NEW SECTION. **Sec. 38.** (1) Sections 8 through 13 of this act
20 (related to industrial insurance) take effect January 1, 2023.

21 (2) Sections 17 and 28 of this act (related to the department of
22 licensing) take effect March 1, 2023.

23 (3) Sections 3 through 5 and 7 of this act (related to the
24 department of labor and industries' enforcement) take effect July 1,
25 2023."

26 Correct the title.

EFFECT: Makes the following changes:

(1) *Definition of driver:* Amends the definition of "driver" to specify that except as otherwise provided in the bill, for purposes of Title 48 (insurance), Title 49 (labor regulations), Title 50 (unemployment insurance), Title 50A (family and medical leave), Title 50B (long term care), and 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. Specifies that a driver does not include a person found to be an "employee" under the federal National Labor Relations Act.

(2) *Compensation rates*: Decreases the minimum per trip rate for trips outside of cities with a population of over 600,000, from \$5.00 to \$3.00. Clarifies when rates apply for trips outside cities with a population of over 600,000. Specifies that the compensation rates for drivers do not begin until December 31, 2022.

(3) *Per trip fees to fund Driver Resource Center*: 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 the requirement for the Department of Labor and Industries (L&I) to notify the Department of Licensing (DOL) if a TNC fails to remit the per trip fee. Requires the L&I to calculate adjustments to the per trip fee beginning September 30, 2024, rather than in 2022.

(4) *Driver Resource Center*: Requires the L&I, rather than the Governor, to select, within four months of the effective date of the bill, the entity to provide services through the Driver Resource Center (DRC).

(5) *TNC and DRC agreements*: Requires the TNCs and the DRC to make good faith efforts to reach an agreement within a specified time and provides a process for reaching the agreement, including binding arbitration. Specifies that the arbitration panel's decision is by majority. Requires the L&I to issue a determination approving or rejecting the agreement within 60 days, rather than 30 days.

(6) *Account deactivations*: Excludes certain conduct from the DRC deactivation appeals process (discrimination, harassment, assault, fraud, impaired driving, and other categories agreed to by the TNC and DRC). Requires TNCs to notify drivers of the right to be represented by the DRC. Requires TNCs to offer the driver the opportunity to have a just cause standard applied, when private arbitration is used.

(7) *Paid sick leave*: Prohibits a TNC from taking adverse action against a driver for exercising rights to paid sick leave.

(8) *Workers' compensation*: Allows the L&I to establish terms and conditions for premiums based on estimated passenger platform time and dispatch platform time. Provides adjustment of workers' compensation premiums pursuant to L&I rules, rather than by the rate of inflation. Requires TNCs in the state fund to provide periodic reports regarding hours worked and amounts paid. Clarifies that coverage and premiums established for drivers do not apply to employees of the TNCs.

(9) *PFML*: Removes the provision providing paid family and medical leave to drivers.

(10) *Unemployment insurance (UI)*: Requires the Employment Security Department to convene a work group to study the application of UI to TNCs and submit a report by December 1, 2022.

(11) *Enforcement*: Adds L&I enforcement provisions for violations of compensation, paid sick leave, retaliation, and other provisions of the bill. Includes requirement to investigate complaints, discretion to impose civil penalties, and procedures for parties to appeal.

(12) *Statewide regulatory standards*: Removes provisions establishing specific vehicle standards, except requires that vehicles not be more than 15 years old. Removes provisions related to the DOL imposing penalties for noncompliance with certain statewide

regulatory standards. Exempts moving violations that are not the driver's fault from the types of violations disqualifying a driver. Specifies that safety products, standards, or other efforts taken by the TNC for public safety does not indicate an employment relationship. Requires TNCs to make certain records available for two years, rather than three years. Removes the provision prohibiting TNCs and drivers from taking adverse actions against passengers in certain situations. Prohibits a TNC from charging excess fares in the first seven, rather than 30 days, of a state of emergency. Removes the provision making violations of the statewide standards Consumer Protection Act violations.

(13) *Motor vehicle insurance and liability*: Requires underinsured motorist insurance in the amount of \$100,000 per person and \$300,000 per accident, rather than eliminating the \$1M amount requirement. Provides that a TNC is not vicariously liable for personal injury arising out of the operation of a vehicle used while the driver is logged on to the TNC network, if there was no negligence from the TNC and the TNC fulfilled all statewide regulatory requirements with respect to the driver. Removes the provision exempting TNCs and drivers from the chapter regulating auto transportation companies.

(14) *Preemption*: Exempts from preemption existing local ordinances of a city with a population of more 600,000 or a county with a population of more than 2 million (Seattle and King County), that regulate TNCs. Provides that a per ride fee, imposed under an exempted local ordinance, to offset expenses of enforcing the local regulatory ordinances may be adjusted if: (a) Revenues from the existing per ride fee is insufficient to offset costs of enforcement; (b) increase of the fee is not more than 10 percent; and (c) the DOL has not authorized a per trip fee increase in the last five fiscal years. Provides that existing local ordinances of Seattle or King County related to compensation, deactivation, paid sick leave, and workers' compensation are preempted as of January 1, 2023. Clarifies that preemption provisions do not apply to generally applicable business and occupation taxes.

(15) *Other*: Removes the requirement that TNCs provide certain information in per trip receipts. Removes the requirement for the Attorney General's Office to maintain a toll-free number and website for passenger rights and complaints. Makes other technical and clarifying language changes.

(16) *Effective dates and implementation dates*: Delays effective date for workers' compensation to January 1, 2023. Delays effective date for provisions related to the DOL to March 1, 2023. Delays implementation of the following: (a) TNCs deducting compensation based on driver's written authorization, begins January 1, 2023; (b) TNCs providing drivers weekly trip statements, providing drivers notice of certain rights, and providing passengers per trip receipts, begins January 1, 2023; (c) TNCs providing per trip receipts to drivers within 24 hours, begins December 31, 2022; and (d) TNCs making trip receipts available for two years in downloadable format, begins January 1, 2023.

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