

ESHB 2076 - S AMD 1382

By Senator Saldaña

ADOPTED 03/04/2022

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) "Director" means the director of the department of labor and
30 industries.

1 (f) "Dispatch location" means the location of the driver at the
2 time the driver accepts a trip request through the driver platform.

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

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

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

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

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

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

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

39 Notwithstanding any state or local law to the contrary, any party
40 seeking to establish that the factors in this subsection (1)(i) are

1 not met bears the burden of proof. A driver for purposes of this
2 section shall not include any person ultimately and finally
3 determined to be an "employee" within the meaning of section 2(3) of
4 the national labor relations act, 29 U.S.C. Sec. 152(3).

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

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

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

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

30 (n) "Passenger" has the same meaning as "commercial
31 transportation services provider passenger" in RCW 48.177.005.

32 (o) "Passenger drop-off location" means the location of a
33 driver's vehicle when the passenger leaves the vehicle.

34 (p) "Passenger pick-up location" means the location of the
35 driver's vehicle at the time the driver starts the trip in the driver
36 platform.

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

1 (r) "Passenger platform time" means the period of time when the
2 driver is transporting one or more passengers on a trip. For shared
3 rides, passenger platform time means the period of time commencing
4 when the first passenger enters the driver's vehicle until the time
5 when the last passenger exits the driver's vehicle.

6 (s) "Personal vehicle" has the same meaning as "personal vehicle"
7 in RCW 48.177.005.

8 (t) "Shared ride" means a dispatched trip which, prior to its
9 commencement, a passenger requests through the transportation network
10 company's digital network to share the dispatched trip with one or
11 more passengers and each passenger is charged a fare that is
12 calculated, in whole or in part, based on the passenger's request to
13 share all or a part of the dispatched trip with one or more
14 passengers, regardless of whether the passenger actually shares all
15 or a part of the dispatched trip.

16 (u) "Tips" means a verifiable sum to be presented by a passenger
17 as a gift or gratuity in recognition of service performed for the
18 passenger by the driver receiving the tip.

19 (v) "Transportation network company" has the same meaning as
20 defined in RCW 46.04.652. A transportation network company does not
21 provide for hire transportation service.

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

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

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

38 (4)(a) Beginning December 31, 2022, a transportation network
39 company shall ensure that a driver's total compensation is not less

1 than the standard set forth in (a)(i), (ii), or (iii) of this
2 subsection (4).

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

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

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

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

10 (A) \$0.34 per passenger platform minute and \$1.17 per passenger
11 platform mile; or

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

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

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

19 (B) For all passenger platform time spent outside the city on
20 that trip and for all passenger platform miles driven outside the
21 city on that trip the compensation standard under (a)(ii) of this
22 subsection applies.

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

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

34 (5)(a) For the purposes of this section, a dispatched trip
35 includes:

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

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

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

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

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

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

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

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

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

24 (iii) Neither the transportation network company nor any person
25 acting in the interest of the transportation network company may
26 derive any financial profit or benefit from any of the deductions
27 under this section. For the purposes of this section:

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

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

37 (7)(a) Beginning January 1, 2023, a transportation network
38 company shall provide each driver with a written notice of rights
39 established by this section in a form and manner sufficient to inform

1 drivers of their rights under this section. The notice of rights
2 shall provide information on:

3 (i) The right to the applicable per minute rate and per mile rate
4 or per trip rate guaranteed by this section;

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

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

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

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

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

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

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

30 (d) Tip compensation;

31 (e) Gross payment;

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

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

36 (9) Beginning January 1, 2023, a transportation network company
37 shall make driver per trip receipts available in a downloadable
38 format, such as a comma-separated values file or PDF file, via
39 smartphone application or online web portal for a period of two years

1 from the date the transportation network company provided the receipt
2 to the driver.

3 (10) Beginning January 1, 2023, on a weekly basis, the
4 transportation network company shall provide written notice to the
5 driver that contains the following information for trips, or a
6 portion of a trip, that is covered by this section and which occurred
7 in the prior week:

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

9 (b) Total mileage driven by the driver during passenger platform
10 time;

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

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

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

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

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

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

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

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

36 (d) The driver's first name;

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

38 (f) The total passenger-paid tips.

39 (12)(a) Beginning July 1, 2024, transportation network companies
40 shall collect and remit a \$0.15 per trip fee to the driver resource

1 center fund, created in section 2 of this act, for the driver
2 resource center to support the driver community. The remittance under
3 this subsection is a pass-through of passenger fares and shall not be
4 considered a transportation network company's funding of the driver
5 resource center. Passenger fares paid include each individual trip
6 portion on shared trips. The remittances to the fund must be made on
7 a quarterly basis.

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

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

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

29 (b) The transportation network company may require written
30 authorization to be submitted in electronic format from the driver
31 resource center.

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

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

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

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

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

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

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

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

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

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

37 (A) Related to an allegation of discrimination, harassment,
38 including sexual harassment or harassment due to someone's membership
39 in a protected class, or physical or sexual assault, or willful or
40 knowing commitment of fraud;

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

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

7 (iii) A transportation network company shall enter into an
8 agreement with the driver resource center regarding the driver
9 account deactivation appeals process for eligible account
10 deactivations. Any agreement must be approved by the department. The
11 department may approve an agreement only if the agreement contains
12 the provisions in (a)(iv) of this subsection.

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

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

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

22 (C) Within 30 calendar days of a request, furnishing to the
23 driver resource center an explanation and information the
24 transportation network company may have relied upon in making the
25 deactivation decision, excluding confidential, proprietary, or
26 otherwise privileged communications, provided that personal
27 identifying information and confidential information is redacted to
28 address reasonable privacy and confidentiality concerns;

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

34 (E) A formal process that includes a just cause standard, with
35 deadlines for adjudication of an appeal of an eligible account
36 deactivation by a panel that includes a mutually agreed-upon neutral
37 third party with experience in dispute resolution. The panel has the
38 authority to make binding decisions within the confines of the law
39 and make-whole monetary awards, including back pay, based on an

1 agreed-upon formula for cases not resolved during the informal
2 process;

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

8 (G) Agreement by the transportation network company that, for
9 eligible account deactivations in which the driver or transportation
10 network company elect private arbitration in lieu of the formal
11 process outlined in (a)(iv)(E) of this subsection (15), the
12 transportation network company shall offer the driver the opportunity
13 to have the eligible deactivation adjudicated under the just cause
14 standard outlined in (a)(iv)(E) of this subsection.

15 (b) A transportation network company that enters into an
16 agreement with the driver resource center shall reach agreement
17 through the following steps:

18 (i)(A) For a transportation network company operating a digital
19 network in the state of Washington as of the effective date of this
20 section, the driver resource center and transportation network
21 company must make good faith efforts to reach an agreement within 120
22 days of an organization being selected as the driver resource center
23 under section 2 of this act.

24 (B) For a transportation network company who begins operating a
25 digital network in the state of Washington after an organization has
26 been selected as the driver resource center under section 2 of this
27 act, the driver resource center and transportation network company
28 must make good faith efforts to reach an agreement within 120 days of
29 the transportation network company beginning operation of a digital
30 network in the state of Washington.

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

34 (iii) After mediation lasting no more than two months has been
35 exhausted and no resolution has been reached, then the parties will
36 proceed to binding arbitration before a panel of arbitrators
37 consisting of one arbitrator selected by the driver resource center,
38 one arbitrator selected by the transportation network company, and a
39 third arbitrator selected by the other two. If the two selected
40 arbitrators cannot agree to the third arbitrator within 10 days, then

1 the third arbitrator shall be determined from a list of seven
2 arbitrators with experience in labor disputes or interest arbitration
3 designated by the American arbitration association. A coin toss shall
4 determine which side strikes the first name. Thereafter the other
5 side shall strike a name. The process will continue until only one
6 name remains, who shall be the third arbitrator. Alternatively, the
7 driver resource center and the transportation network company may
8 agree to a single arbitrator.

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

12 (v) The decision of the majority of arbitrators is final and
13 binding and will then be submitted to the director of the department
14 for final approval.

15 (c) In reviewing any agreement between a transportation network
16 company and the driver resource center, under (a) of this subsection,
17 the department shall review the agreement to ensure that its content
18 is consistent with this subsection and the public policy goals set
19 forth in this subsection. The department shall consider in its review
20 both qualitative and quantitative effects of the agreement and how
21 the agreement comports with the state policies set forth in this
22 section. In conducting a review, the record shall not be limited to
23 the submissions of the parties nor to the terms of the proposed
24 agreement and the department shall have the right to conduct public
25 hearings and request additional information from the parties,
26 provided that such information: (i) Is relevant for determining
27 whether the agreement complies with this subsection; and (ii) does
28 not contain either parties' confidential, proprietary, or privileged
29 information, or any individual's personal identifying information
30 from the parties. The department may approve or reject a proposed
31 agreement, and may require the parties to submit a revised proposal
32 on all or particular parts of the proposed agreement. If the
33 department rejects an agreement, it shall set forth its reasoning in
34 writing and shall suggest ways the parties may remedy the failures.
35 Absent good cause, the department shall issue a written determination
36 regarding its approval or rejection within 60 days of submission of
37 the agreement.

38 (d) (i) For any account deactivation, the transportation network
39 company shall provide notification to the driver, at the time of

1 deactivation, that the driver may have the right to representation by
2 the driver resource center to appeal the account deactivation.

3 (ii) A transportation network company must provide any driver
4 whose account is subject to an account deactivation between the
5 effective date of this section and the effective date of the
6 agreement the contact information of the driver resource center and
7 notification that the driver may have the right to appeal the account
8 deactivation with representation by the driver resource center.

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

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

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

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

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

26 (4) The department may make expenditures from the fund for the
27 following purposes:

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

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

37 (5) Within four months of the effective date of this section, the
38 director of the department or the director's designee shall, through

1 a competitive process, select and contract with a qualified nonprofit
2 organization to be the driver resource center.

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

5 (1) (a) If a driver files a complaint with the department alleging
6 that a transportation network company failed to provide any
7 compensation amounts due to the driver under section 1 of this act,
8 the department shall investigate the complaint under this section.
9 Unless otherwise resolved, the department shall issue either a
10 citation and notice of assessment or a determination of compliance no
11 later than 60 days after the date on which the department received
12 the compensation-related complaint. The department may extend the
13 time period by providing advance written notice to the driver and the
14 transportation network company setting forth good cause for an
15 extension of the time period and specifying the duration of the
16 extension.

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

20 (c) The department shall send the citation and notice of
21 assessment or the determination of compliance to both the
22 transportation network company and the driver by service of process
23 or using a method by which the mailing can be tracked or the delivery
24 can be confirmed to their last known addresses. A transportation
25 network company may designate a mailing address of record for
26 service, and additionally may provide an email address to which the
27 department shall direct electronic courtesy copies of mailed
28 correspondence, if such email address is provided.

29 (2) If the department determines that a transportation network
30 company has violated a compensation requirement in section 1 of this
31 act and issues to the transportation network company a citation and
32 notice of assessment, the department may order the transportation
33 network company to pay drivers all compensation owed, including
34 interest of one percent per month on all compensation owed, to the
35 driver. The compensation and interest owed must be calculated from
36 the first date compensation was owed to the driver, except that the
37 department may not order the transportation network company to pay
38 any compensation and interest that were owed more than three years
39 before the date the complaint was filed with the department.

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

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

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

23 (c) The department shall waive any civil penalty assessed against
24 a transportation network company under this section if the
25 transportation network company is not a repeat willful violator, and
26 the director determines that the transportation network company has
27 provided payment to the driver of all compensation that the
28 department determined that the transportation network company owed to
29 the driver, including interest, within 30 days of the transportation
30 network company's receipt of the citation and notice of assessment
31 from the department.

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

36 (e) The department shall deposit civil penalties paid under this
37 section in the supplemental pension fund established under RCW
38 51.44.033.

39 (4) Upon payment by a transportation network company, and
40 acceptance by a driver, of all compensation and interest assessed by

1 the department in a citation and notice of assessment issued to the
2 transportation network company, the fact of such payment by the
3 transportation network company, and of such acceptance by the driver,
4 shall: (a) Constitute a full and complete satisfaction by the
5 transportation network company of all specific requirements of
6 section 1 of this act addressed in the citation and notice of
7 assessment; and (b) bar the driver from initiating or pursuing any
8 court action or other judicial or administrative proceeding,
9 including arbitration, based on the specific requirements addressed
10 in the citation and notice of assessment. The citation and notice of
11 assessment shall include a notification and summary of the specific
12 requirements of section 1 of this act.

13 (5) The applicable statute of limitations for civil actions is
14 tolled during the department's investigation of a driver's complaint
15 against a transportation network company. For the purposes of this
16 subsection, the department's investigation begins on the date the
17 driver files the complaint with the department and ends when: (a) The
18 complaint is finally determined through a final and binding citation
19 and notice of assessment or determination of compliance; or (b) the
20 department notifies the transportation network company and the driver
21 in writing that the complaint has been otherwise resolved or that the
22 driver has elected to terminate the department's administrative
23 action under subsection (12) of this section.

24 (6) A person, firm, or corporation aggrieved by a citation and
25 notice of assessment or a determination of compliance issued by the
26 department under this section or the assessment of a civil penalty
27 due to a determination of status as a repeat willful violator may
28 appeal the citation and notice of assessment, the determination of
29 compliance, or the assessment of a civil penalty to the director by
30 filing a notice of appeal with the director within 30 days of the
31 department's service, as provided in subsection (1) of this section,
32 on the aggrieved party of the citation and notice of assessment, the
33 determination of compliance, or the assessment of a civil penalty. A
34 citation and notice of assessment, a determination of compliance, or
35 an assessment of a civil penalty not appealed within 30 days is final
36 and binding, and not subject to further appeal.

37 (7) A notice of appeal filed with the director under this section
38 shall stay the effectiveness of the citation and notice of
39 assessment, the determination of compliance, or the assessment of a

1 civil penalty pending final review of the appeal by the director as
2 provided for in chapter 34.05 RCW.

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

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

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

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

27 (12) A driver who has filed a complaint under this section with
28 the department may elect to terminate the department's administrative
29 action, thereby preserving any private right of action, if any
30 exists, by providing written notice to the department within 10
31 business days after the driver's receipt of the department's citation
32 and notice of assessment.

33 (13) If the driver elects to terminate the department's
34 administrative action: (a) The department shall immediately
35 discontinue its action against the transportation network company;
36 (b) the department shall vacate a citation and notice of assessment
37 already issued by the department to the transportation network
38 company; and (c) the citation and notice of assessment, and any
39 related findings of fact or conclusions of law by the department, and
40 any payment or offer of payment by the transportation network company

1 of the compensation, including interest, assessed by the department
2 in the citation and notice of assessment, shall not be admissible in
3 any court action or other judicial or administrative proceeding.

4 (14) Nothing in this section shall be construed to limit or
5 affect: (a) The right of any driver to pursue any judicial,
6 administrative, or other action available with respect to a
7 transportation network company; (b) the right of the department to
8 pursue any judicial, administrative, or other action available with
9 respect to a driver that is identified as a result of a complaint for
10 a violation of section 1 of this act; or (c) the right of the
11 department to pursue any judicial, administrative, or other action
12 available with respect to a transportation network company in the
13 absence of a complaint for a violation of section 1 of this act. For
14 purposes of this subsection, "driver" means a driver other than a
15 driver who has filed a complaint with the department and who
16 thereafter has elected to terminate the department's administrative
17 action as provided in subsection (1) of this section.

18 (15) After a final order is issued under this section, and served
19 as provided in subsection (1) of this section, if a transportation
20 network company defaults in the payment of: (a) Any compensation
21 determined by the department to be owed to a driver, including
22 interest; or (b) any civil penalty ordered by the department under
23 this section, the director may file with the clerk of any county
24 within the state a warrant in the amount of the payment plus any
25 filing fees. The clerk of the county in which the warrant is filed
26 shall immediately designate a superior court cause number for the
27 warrant, and the clerk shall cause to be entered in the judgment
28 docket under the superior court cause number assigned to the warrant,
29 the name of the transportation network company mentioned in the
30 warrant, the amount of payment due plus any filing fees, and the date
31 when the warrant was filed. The aggregate amount of the warrant as
32 docketed becomes a lien upon the title to, and interest in, all real
33 and personal property of the transportation network company against
34 whom the warrant is issued, the same as a judgment in a civil case
35 docketed with the superior court clerk. The sheriff shall proceed
36 upon the warrant in all respects and with like effect as prescribed
37 by law with respect to execution or other process issued against
38 rights or property upon judgment in a court of competent
39 jurisdiction. The warrant so docketed is sufficient to support the
40 issuance of writs of garnishment in favor of the state in a manner

1 provided by law in case of judgment, wholly or partially unsatisfied.
2 The clerk of the court is entitled to a filing fee which will be
3 added to the amount of the warrant. A copy of the warrant shall be
4 served on the transportation network company, as provided in
5 subsection (1) of this section, within three days of filing with the
6 clerk.

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

25 (b) The notice and order to withhold and deliver must be served
26 by the sheriff of the county or by the sheriff's deputy, by certified
27 mail, return receipt requested, or by the director. A person, firm,
28 corporation, other entity, municipal corporation, political
29 subdivision of the state, public corporation, or agency of the state
30 upon whom service has been made shall answer the notice within 20
31 days exclusive of the day of service, under oath and in writing, and
32 shall make true answers to the matters inquired of in the notice and
33 order. Upon service of the notice and order, if the party served
34 possesses any property that may be subject to the claim of the
35 department, the party shall promptly deliver the property to the
36 director. The director shall hold the property in trust for
37 application on the transportation network company's indebtedness to
38 the department, or for return without interest, in accordance with a
39 final determination of a petition for review. In the alternative, the
40 party shall furnish a good and sufficient surety bond satisfactory to

1 the director conditioned upon final determination of liability. If a
2 party served and named in the notice fails to answer the notice
3 within the time prescribed in this section, the court may render
4 judgment by default against the party for the full amount claimed by
5 the director in the notice, together with costs. If a notice is
6 served upon a transportation network company and the property subject
7 to it is compensation, the transportation network company may assert
8 in the answer all exemptions provided for by chapter 6.27 RCW to
9 which the compensation earner is entitled.

10 (c) As an alternative to the methods of service described in this
11 section, the department may electronically serve a financial
12 institution with a notice and order to withhold and deliver by
13 providing a list of its outstanding warrants, except those for which
14 a payment agreement is in good standing, to the department of
15 revenue. The department of revenue may include the warrants provided
16 by the department in a notice and order to withhold and deliver
17 served under RCW 82.32.235(3). A financial institution that is served
18 with a notice and order to withhold and deliver under this subsection
19 (16)(c) must answer the notice within the time period applicable to
20 service under RCW 82.32.235(3). The department and the department of
21 revenue may adopt rules to implement this subsection (16)(c).

22 (17)(a) In addition to the procedure for collection of
23 compensation owed, including interest, and civil penalties as set
24 forth in this section, the department may recover compensation owed,
25 including interest, and civil penalties assessed under RCW 49.48.083
26 in a civil action brought in a court of competent jurisdiction of the
27 county where the violation is alleged to have occurred.

28 (b) The department may use the procedures under this section to
29 foreclose compensation liens established under chapter 60.90 RCW.
30 When the department is foreclosing on a compensation lien, the date
31 the compensation lien was originally filed shall be the date by which
32 priority is determined, regardless of the date the warrant is filed
33 under this section.

34 (18) Whenever any transportation network company quits business,
35 sells out, exchanges, or otherwise disposes of the transportation
36 network company's business or stock of goods, any person who becomes
37 a successor to the business becomes liable for the full amount of any
38 outstanding citation and notice of assessment or penalty against the
39 transportation network company's business under this chapter if, at
40 the time of the conveyance of the business, the successor has: (a)

1 Actual knowledge of the fact and amount of the outstanding citation
2 and notice of assessment; or (b) a prompt, reasonable, and effective
3 means of accessing and verifying the fact and amount of the
4 outstanding citation and notice of assessment from the department. If
5 the citation and notice of assessment or penalty is not paid in full
6 by the transportation network company within 10 days of the date of
7 the sale, exchange, or disposal, the successor is liable for the
8 payment of the full amount of the citation and notice of assessment
9 or penalty, and payment thereof by the successor must, to the extent
10 thereof, be deemed a payment upon the purchase price. If the payment
11 is greater in amount than the purchase price, the amount of the
12 difference becomes a debt due the successor from the transportation
13 network company.

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

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

18 (1) If a driver files a complaint with the department alleging a
19 violation of any noncompensation requirement of section 1 (7) through
20 (10) and (12) through (14) of this act, the department shall
21 investigate the complaint under this section.

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

25 (b) If a driver files a timely complaint with the department, the
26 department will investigate the complaint and issue either a citation
27 assessing a civil penalty or a closure letter within 60 days after
28 the date on which the department received the complaint, unless the
29 complaint is otherwise resolved. The department may extend the period
30 by providing advance written notice to the driver and the
31 transportation network company setting forth good cause for an
32 extension of the period, and specifying the duration of the
33 extension.

34 (c) The department shall send notice of either a citation and
35 notice of assessment or a citation assessing a civil penalty or the
36 closure letter to both the transportation network company and the
37 driver by service of process or by United States mail using a method
38 by which delivery of such written notice to the transportation
39 network company can be tracked and confirmed. A transportation

1 network company may designate a mailing address of record for
2 service, and additionally may provide an email address to which the
3 department shall direct electronic courtesy copies of mailed
4 correspondence, if such email address is provided.

5 (2) If the department's investigation finds that the driver's
6 allegation cannot be substantiated, the department shall issue a
7 closure letter to the driver and the transportation network company
8 detailing such finding.

9 (3) If the department determines that the violation was a willful
10 violation, and the transportation network company fails to take
11 corrective action, the department may order the transportation
12 network company to pay the department a civil penalty as specified in
13 (a) of this subsection.

14 (a) A citation assessing a civil penalty for a willful violation
15 will be \$1,000 for each willful violation. For a repeat willful
16 violator, the citation assessing a civil penalty will not be less
17 than \$2,000 for each repeat willful violation per claimant, but no
18 greater than \$20,000 for each repeat willful violation per claimant.

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

21 (i) A written order, ruling, approval, opinion, advice,
22 determination, or interpretation of the director; or (ii) an
23 interpretive or administrative policy issued by the department and
24 filed with the office of the code reviser. In accordance with the
25 department's retention schedule obligations under chapter 40.14 RCW,
26 the department shall maintain a complete and accurate record of all
27 written orders, rulings, approvals, opinions, advice, determinations,
28 and interpretations for purposes of determining whether a
29 transportation network company is immune from civil penalties under
30 this subsection (3)(b).

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

35 (d) The department shall deposit civil penalties paid under this
36 section in the supplemental pension fund established under RCW
37 51.44.033.

38 (e) If the department determines that a transportation network
39 company has violated section 1(12) of this act, and issues to the
40 transportation network company a citation and notice of assessment,

1 the department may order the transportation network company to pay
2 all owed remittance payments as required under section 1(12) of this
3 act. The department shall deposit all owed remittance payments in the
4 driver resource center fund.

5 (4) For purposes of this section, the following definitions
6 apply:

7 (a) "Repeat willful violator" means any transportation network
8 company that has been the subject of a final and binding citation for
9 a willful violation of one or more rights under this chapter and all
10 applicable rules, within three years of the date of issuance of the
11 most recent citation for a willful violation of one or more such
12 rights.

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

15 (5) A person, firm, or corporation aggrieved by a citation
16 assessing a civil penalty issued by the department under this section
17 may appeal the citation assessing a civil penalty to the director by
18 filing a notice of appeal with the director within 30 days of the
19 department's issuance of the citation assessing a civil penalty. A
20 citation assessing a civil penalty not appealed within 30 days is
21 final and binding, and not subject to further appeal.

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

26 (7) Upon receipt of a notice of appeal, the director shall assign
27 the hearing to an administrative law judge of the office of
28 administrative hearings to conduct the hearing and issue an initial
29 order. The hearing and review procedures must be conducted in
30 accordance with chapter 34.05 RCW, and the standard of review by the
31 administrative law judge of an appealed citation assessing a civil
32 penalty must be de novo. Any party who seeks to challenge an initial
33 order shall file a petition for administrative review with the
34 director within 30 days after service of the initial order. The
35 director shall conduct administrative review in accordance with
36 chapter 34.05 RCW.

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

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

4 (10) Absent good cause, a transportation network company that
5 fails to allow adequate inspection of records in an investigation by
6 the department under this section within a reasonable time period may
7 not use such records in any appeal under such rules to challenge the
8 correctness of any determination by the department of penalties
9 assessed.

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

12 (12) If the department determines that a transportation network
13 company has violated the requirements in section 1(12) of this act to
14 collect and remit the established fee, and issues to the
15 transportation network company a citation and notice of assessment,
16 the department may order the transportation network company to pay
17 all owed remittance payments as required under section 1(12) of this
18 act. The department shall deposit all unpaid remittance amounts into
19 the driver resource center fund established in section 2 of this act.

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

22 (1) It is unlawful for a transportation network company to
23 interfere with, restrain, or deny the exercise of any driver right
24 provided under or in connection with section 1 of this act and RCW
25 49.46.210(5). This means a transportation network company may not use
26 a driver's exercise of any of the rights provided under section 1 of
27 this act and RCW 49.46.210(5) as a factor in any action that
28 adversely affects the driver's use of the transportation network.

29 (2) It is unlawful for a transportation network company to adopt
30 or enforce any policy that counts the use of earned paid sick time
31 for a purpose authorized under RCW 49.46.210(1) (b) and (c) as time
32 off the platform that may lead to or result in temporary or permanent
33 deactivation by the transportation network company against the
34 driver.

35 (3) It is unlawful for a transportation network company to take
36 any adverse action against a driver because the driver has exercised
37 their rights provided under section 1 of this act and RCW
38 49.46.210(5). Such rights include, but are not limited to: Filing an
39 action, or instituting or causing to be instituted any proceeding

1 under or related to section 1 of this act and RCW 49.46.210(5), or
2 testifying or intending to testify in any such proceeding related to
3 any rights provided under section 1 of this act and RCW 49.46.210(5).

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

7 (5) A driver who believes that he or she was subject to
8 retaliation by a transportation network company for the exercise of
9 any driver right under section 1 of this act and RCW 49.46.210(5) may
10 file a complaint with the department within 180 days of the alleged
11 retaliatory action. The department may, at its discretion, extend the
12 180-day period on recognized equitable principles or because of
13 extenuating circumstances beyond the control of the department. The
14 department may extend the 180-day period when there is a
15 preponderance of evidence that the transportation network company has
16 concealed or misled the driver regarding the alleged retaliatory
17 action.

18 (6) If a driver files a timely complaint with the department
19 alleging retaliation, the department shall investigate the complaint
20 and issue either a citation and notice of assessment or a
21 determination of compliance within 90 days after the date on which
22 the department received the complaint, unless the complaint is
23 otherwise resolved. The department may extend the period by providing
24 advance written notice to the driver and the transportation network
25 company setting forth good cause for an extension of the period, and
26 specifying the duration of the extension.

27 (7) The department may consider a complaint to be otherwise
28 resolved when the driver and the transportation network company reach
29 a mutual agreement to remedy any retaliatory action, or the driver
30 voluntarily and on the driver's own initiative withdraws the
31 complaint.

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

36 (9) If the department's investigation finds that the
37 transportation network company retaliated against the driver, and the
38 complaint is not otherwise resolved, the department may, at its
39 discretion, notify the transportation network company that the
40 department intends to issue a citation and notice of assessment, and

1 may provide up to 30 days after the date of such notification for the
2 transportation network company to take corrective action to remedy
3 the retaliatory action. If the complaint is not otherwise resolved,
4 then the department shall issue a citation and notice of assessment.
5 The department's citation and notice of assessment may:

6 (a) Order the transportation network company to make payable to
7 the driver earnings that the driver did not receive due to the
8 transportation network company's retaliatory action, including
9 interest of one percent per month on all earnings owed. The earnings
10 and interest owed will be calculated from the first date earnings
11 were owed to the driver;

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

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

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

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

23 (10) The department shall send the citation and notice of
24 assessment or determination of compliance to both the transportation
25 network company and driver by service of process or using a method by
26 which the mailing can be tracked or the delivery can be confirmed to
27 their last known addresses. A transportation network company may
28 designate a mailing address of record for service, and additionally
29 may provide an email address to which the department shall direct
30 electronic courtesy copies of mailed correspondence, if such email
31 address is provided.

32 (11) During an investigation of the driver's retaliation
33 complaint, if the department discovers information suggesting alleged
34 violations by the transportation network company of the driver's
35 other rights under this chapter, and all applicable rules, the
36 department may investigate and take appropriate enforcement action
37 without requiring the driver to file a new or separate complaint. In
38 the event the department so expands an investigation, it shall
39 provide reasonable notice to the transportation network company that
40 it is doing so. If the department determines that the transportation

1 network company violated additional rights of the driver under this
2 chapter, and all applicable rules, the transportation network company
3 may be subject to additional enforcement actions for the violation of
4 such rights. If the department discovers information alleging the
5 transportation network company retaliated against or otherwise
6 violated rights of other drivers under this chapter, and all
7 applicable rules, the department may launch further investigation
8 under this chapter, and all applicable rules, without requiring
9 additional complaints to be filed.

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

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

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

16 (15) If the department's investigation finds that a
17 transportation network company retaliated against a driver, pursuant
18 to the procedures outlined in this section, the department may order
19 the transportation network company to pay the department a civil
20 penalty. A civil penalty for a transportation network company's
21 retaliatory action will not be less than \$1,000 or an amount equal to
22 10 percent of the total amount of unpaid earnings attributable to the
23 retaliatory action per claimant, whichever is greater. The maximum
24 civil penalty for a transportation network company's retaliatory
25 action shall be \$20,000 per claimant for the first violation, and
26 \$40,000 for each repeat violation.

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

31 (17) The department will deposit civil penalties paid under this
32 section in the supplemental pension fund established under RCW
33 51.44.033.

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

37 (19) A person, firm, or corporation aggrieved by a citation and
38 notice of assessment or a determination of compliance may, within 30
39 days after the date of such determination, submit a request for
40 reconsideration to the department setting forth the grounds for

1 seeking such reconsideration, or submit an appeal to the director
2 pursuant to the procedures outlined in subsection (22) of this
3 section. If the department receives a timely request for
4 reconsideration, the department shall either accept the request or
5 treat the request as a notice of appeal.

6 (20) If a request for reconsideration is accepted, the department
7 shall send notice of the request for reconsideration to the
8 transportation network company and the driver. The department shall
9 determine if there are any valid reasons to reverse or modify the
10 department's original decision to issue a citation and notice of
11 assessment or determination of compliance within 30 days of receipt
12 of such request. The department may extend this period by providing
13 advance written notice to the driver and transportation network
14 company setting forth good cause for an extension of the period, and
15 specifying the duration of the extension. After reviewing the
16 reconsideration, the department shall either:

17 (a) Notify the driver and the transportation network company that
18 the citation and notice of assessment or determination of compliance
19 is affirmed; or

20 (b) Notify the driver and the transportation network company that
21 the citation and notice of assessment or determination of compliance
22 has been reversed or modified.

23 (21) A request for reconsideration submitted to the department
24 shall stay the effectiveness of the citation and notice of assessment
25 or the determination of compliance pending the reconsideration
26 decision by the department.

27 (22)(a) Within 30 days after the date the department issues a
28 citation and notice of assessment or a determination of compliance,
29 or within 30 days after the date the department issues its decision
30 on the request for reconsideration, a person, firm, or corporation
31 aggrieved by a citation and notice of assessment or a determination
32 of compliance may file with the director a notice of appeal.

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

37 (c) Upon receipt of a notice of appeal, the director shall assign
38 the hearing to an administrative law judge of the office of
39 administrative hearings to conduct the hearing and issue an initial
40 order. The hearing and review procedures shall be conducted in

1 accordance with chapter 34.05 RCW, and the standard of review by the
2 administrative law judge of an appealed citation and notice of
3 assessment or determination of compliance shall be de novo. Any party
4 who seeks to challenge an initial order shall file a petition for
5 administrative review with the director within 30 days after service
6 of the initial order. The director shall conduct administrative
7 review in accordance with chapter 34.05 RCW.

8 (23) If a request for reconsideration is not submitted to the
9 department within 30 days after the date of the original citation and
10 notice of assessment or determination of compliance, and a person,
11 firm, or corporation aggrieved by a citation and notice of assessment
12 or determination of compliance did not submit an appeal to the
13 director, then the citation and notice of assessment or determination
14 of compliance is final and binding, and not subject to further
15 appeal.

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

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

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

27 **PART II**

28 **PAID SICK LEAVE**

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

31 (1) Beginning January 1, 2018, except as provided in RCW
32 49.46.180, every employer shall provide each of its employees paid
33 sick leave as follows:

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

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

3 (i) An absence resulting from an employee's mental or physical
4 illness, injury, or health condition; to accommodate the employee's
5 need for medical diagnosis, care, or treatment of a mental or
6 physical illness, injury, or health condition; or an employee's need
7 for preventive medical care;

8 (ii) To allow the employee to provide care for a family member
9 with a mental or physical illness, injury, or health condition; care
10 of a family member who needs medical diagnosis, care, or treatment of
11 a mental or physical illness, injury, or health condition; or care
12 for a family member who needs preventive medical care; and

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

17 (c) An employee is authorized to use paid sick leave for absences
18 that qualify for leave under the domestic violence leave act, chapter
19 49.76 RCW.

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

23 (e) Employers are not prevented from providing more generous paid
24 sick leave policies or permitting use of paid sick leave for
25 additional purposes.

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

29 (g) For absences exceeding three days, an employer may require
30 verification that an employee's use of paid sick leave is for an
31 authorized purpose. If an employer requires verification,
32 verification must be provided to the employer within a reasonable
33 time period during or after the leave. An employer's requirements for
34 verification may not result in an unreasonable burden or expense on
35 the employee and may not exceed privacy or verification requirements
36 otherwise established by law.

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

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

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

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

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

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

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

30 (c) A spouse;

31 (d) A registered domestic partner;

32 (e) A grandparent;

33 (f) A grandchild; or

34 (g) A sibling.

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

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

1 (5) (a) The definitions in this subsection apply to this
2 subsection:

3 (i) "Average hourly compensation" means a driver's compensation
4 during passenger platform time from, or facilitated by, the
5 transportation network company, during the 365 days immediately prior
6 to the day that paid sick time is used, divided by the total hours of
7 passenger platform time worked by the driver on that transportation
8 network company's driver platform during that period. "Average hourly
9 compensation" does not include tips.

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

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

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

20 (A) A child, including a biological, adopted, or foster child,
21 stepchild, or a child to whom the driver stands in loco parentis, is
22 a legal guardian, or is a de facto parent, regardless of age or
23 dependency status;

24 (B) A biological, adoptive, de facto, or foster parent,
25 stepparent, or legal guardian of a driver or the driver's spouse or
26 registered domestic partner, or a person who stood in loco parentis
27 when the driver was a minor child;

28 (C) A spouse;

29 (D) A registered domestic partner;

30 (E) A grandparent;

31 (F) A grandchild; or

32 (G) A sibling.

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

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

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

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

10 (f) A driver may carry over up to 40 hours of unused earned paid
11 sick time to the next calendar year. If a driver carries over unused
12 earned paid sick time to the following year, accrual of earned paid
13 sick time in the subsequent year must be in addition to the hours
14 accrued in the previous year and carried over.

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

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

21 (i) An absence resulting from the driver's mental or physical
22 illness, injury, or health condition; to accommodate the driver's
23 need for medical diagnosis, care, or treatment of a mental or
24 physical illness, injury, or health condition; or an employee's need
25 for preventive medical care;

26 (ii) To allow the driver to provide care for a family member with
27 a mental or physical illness, injury, or health condition; care of a
28 family member who needs medical diagnosis, care, or treatment of a
29 mental or physical illness, injury, or health condition; or care for
30 a family member who needs preventive medical care;

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

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

35 (v) During a deactivation or other status that prevents the
36 driver from performing network services on the transportation network
37 company's platform, unless the deactivation or status is due to a
38 verified allegation of sexual assault or physical assault perpetrated
39 by the driver.

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

6 (j) Drivers may use accrued days of earned paid sick time in
7 increments of a minimum of four or more hours. Drivers are entitled
8 to request four or more hours of earned paid sick time for immediate
9 use, including consecutive days of use. Drivers are not entitled to
10 use more than eight hours of earned paid sick time within a single
11 calendar day.

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

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

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

30 (n) A transportation network company shall provide each driver
31 with:

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

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

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

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

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

1 The transportation network company shall provide this information to
2 the driver no less than monthly. The transportation network company
3 may choose a reasonable system for providing this notification,
4 including but not limited to: A pay stub; a weekly summary of
5 compensation information; or an online system where drivers can
6 access their own earned paid sick time information. A transportation
7 network company is not required to provide this information to a
8 driver if the driver has not worked any days since the last
9 notification.

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

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

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

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

21 (1) If a driver files a complaint with the department alleging
22 that the transportation network company failed to provide the driver
23 with earned paid sick time as provided in RCW 49.46.210, the
24 department shall investigate the complaint as an alleged violation of
25 a compensation-related requirement of section 1 of this act.

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

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

34 (b) Receive payment from the transportation network company at
35 their average hourly compensation for each hour of earned paid sick
36 time that the driver would have used or been reasonably expected to
37 use, whichever is greater, during the period of noncompliance, not to
38 exceed an amount the driver would have otherwise accrued. The driver
39 will receive full access to the balance of accrued earned paid sick

1 time unlawfully withheld by the transportation network company, less
2 the number of earned paid sick time paid out to the driver pursuant
3 to this subsection.

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

18 (4) The department's notice of assessment, pursuant to RCW
19 49.48.083, may order the transportation network company to provide
20 the driver any combination of reinstatement and payment of accrued,
21 unused earned paid sick time assessed pursuant to subsection (2) or
22 (3) of this section, unless such reinstatement is prohibited by law.

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

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

29 **PART III**

30 **INDUSTRIAL INSURANCE**

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

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

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

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

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

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

12 (5) Sole proprietors or partners.

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

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

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

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

1 (c) Determinations respecting the status of persons performing
2 services for a corporation shall be made, in part, by reference to
3 Title 23B RCW and to compliance by the corporation with its own
4 articles of incorporation and bylaws. For the purpose of determining
5 coverage under this title, substance shall control over form, and
6 mandatory coverage under this title shall extend to all workers of
7 this state, regardless of honorary titles conferred upon those
8 actually serving as workers.

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

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

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

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

27 (12) Services performed by a booth renter. However, a person
28 exempted under this subsection may elect coverage under RCW
29 51.32.030.

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

31 (a) Management of the company is vested in its members, and the
32 members for whom exemption is sought would qualify for exemption
33 under subsection (5) of this section were the company a sole
34 proprietorship or partnership; or

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

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

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

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

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

23 (2) Notwithstanding subsection (1) of this section, and for
24 purposes of this title only, a transportation network company, as
25 defined in section 1 of this act, shall have the same rights and
26 obligations of an "employer" under this title with respect to a
27 driver, as defined in section 1 of this act, only while the driver is
28 engaged in passenger platform time and dispatch platform time.

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

31 (1) "Worker" means every person in this state who is engaged in
32 the employment of an employer under this title, whether by way of
33 manual labor or otherwise in the course of his or her employment;
34 also every person in this state who is engaged in the employment of
35 or who is working under an independent contract, the essence of which
36 is his or her personal labor for an employer under this title,
37 whether by way of manual labor or otherwise, in the course of his or
38 her employment, or as an exception to the definition of worker, a

1 person is not a worker if he or she meets the tests set forth in
2 subsections (1) through (6) of RCW 51.08.195 or the separate tests
3 set forth in RCW 51.08.181 for work performed that requires
4 registration under chapter 18.27 RCW or licensing under chapter 19.28
5 RCW: PROVIDED, That a person is not a worker for the purpose of this
6 title, with respect to his or her activities attendant to operating a
7 truck which he or she owns, and which is leased to a common or
8 contract carrier.

9 (2) Notwithstanding subsection (1) of this section, and for
10 purposes of this title only, a driver, as defined in section 1 of
11 this act, shall have the same rights and obligations of a "worker"
12 under this title with respect to a transportation network company, as
13 defined in section 1 of this act, only while the driver is engaged in
14 passenger platform time and dispatch platform time.

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

17 (1) Beginning January 1, 2023, the department shall assess
18 premiums for transportation network companies, as defined in section
19 1 of this act, in accordance with RCW 51.16.035 and this section, for
20 workers' compensation coverage applicable to drivers, as defined in
21 section 1 of this act, while the driver is engaged in passenger
22 platform time and dispatch platform time, as those terms are defined
23 in section 1 of this act.

24 (2) For the purposes of calculating the premium for drivers under
25 subsection (1) of this section, the department shall multiply the
26 total number of hours spent by drivers in passenger platform time and
27 dispatch platform time on the transportation network company's driver
28 platform by the rates established for taxicab companies. The
29 department may subsequently adjust premiums in accordance with
30 department rules.

31 (3) Transportation network companies, not qualifying as a self-
32 insurer, shall insure with the state and shall, on or before the last
33 day of January, April, July, and October of each year thereafter,
34 furnish the department with a true and accurate statement of the
35 hours for which drivers, as defined in section 1 of this act, were
36 engaged in passenger platform time and dispatch platform time on the
37 transportation network company's driver platform during the preceding
38 calendar quarter and the total amount paid to such drivers engaged in
39 passenger platform time on the transportation network company's

1 driver platform during the preceding calendar quarter, and shall pay
2 its premium based on the total passenger platform time and dispatch
3 platform time to the appropriate fund. Premiums for a calendar
4 quarter, whether reported or not, shall become due and delinquent on
5 the day immediately following the last day of the month following the
6 calendar quarter. The sufficiency of such statement shall be subject
7 to the approval of the director: PROVIDED, That the director may in
8 his or her discretion and for the effective administration of this
9 title require a transportation network company in individual
10 instances to furnish a supplementary report containing the name of
11 each individual driver, his or her hours engaged in passenger
12 platform time and dispatch platform time on the transportation
13 network company's driver platform, and his or her compensation:
14 PROVIDED FURTHER, That the department may promulgate rules and
15 regulations in accordance with chapter 34.05 RCW to establish other
16 reporting periods and payment due dates in lieu of reports and
17 payments following each calendar quarter, and may also establish
18 terms and conditions for payment of premiums and assessments based on
19 estimated passenger platform time and dispatch platform time on the
20 transportation network company's driver platform, with such payments
21 being subject to approval as to sufficiency of the estimated
22 passenger platform time and dispatch platform time on the
23 transportation network company's driver platform by the department,
24 and also subject to appropriate periodic adjustments made by the
25 department based on actual passenger platform time and dispatch
26 platform time on the transportation network company's driver
27 platform.

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

31 (5) This section does not apply to any worker who is not a
32 driver, and who is employed by the transportation network company.
33 For those workers the processes for determining coverage, calculating
34 premiums, reporting requirements, reporting periods, and payment due
35 dates are subject to the provisions of this title that apply
36 generally to employers and workers.

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

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

1 (7) "Prearranged ride" has the same meaning provided in RCW
2 48.177.005.

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

5 (9) "Transportation network company vehicle" has the same meaning
6 as "personal vehicle" in RCW 48.177.005.

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

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

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

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

26 NEW SECTION. **Sec. 18.** Any transportation network company
27 operating in Washington state must maintain an agent for service of
28 process in the state.

29 NEW SECTION. **Sec. 19.** (1) Before a passenger enters a
30 transportation network company vehicle, the transportation network
31 company must provide, on behalf of the driver, either the fare for
32 the prearranged ride or the option to receive an estimated fare for
33 the prearranged ride.

34 (2) During the first seven days of a state of emergency, as
35 declared by the governor or the president of the United States, a
36 transportation network company may not charge a fare for

1 transportation network company services provided to any passenger
2 that exceeds two and one-half times the fare that would otherwise be
3 applicable for the prearranged ride.

4 NEW SECTION. **Sec. 20.** A transportation network company's
5 digital network or website must display a photograph of the driver
6 and the license plate number of the transportation network company
7 vehicle.

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

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

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

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

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

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

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

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

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

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

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

15 (a) Has had more than three moving violations in the prior three-
16 year period, or one of the following major violations in the prior
17 three-year period:

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

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

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

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

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

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

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

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

29 (c) Has been convicted of any sex offense as defined in RCW
30 9.94A.030 or is a match in the United States department of justice
31 national sex offender public website;

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

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

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

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

38 (3) (a) Subsection (2) (a) and (b) of this section applies to any
39 conviction of any offense committed in another jurisdiction that

1 includes all of the elements of any of the offenses described or
2 defined in subsection (2) (a) and (b) of this section.

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

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

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

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

19 (1) Solicit or accept a trip request to provide network services
20 other than a trip request arranged through a transportation network
21 company's digital network;

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

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

26 NEW SECTION. **Sec. 25.** (1) A transportation network company must
27 adopt a policy of nondiscrimination on the basis of race, color,
28 national origin, citizenship or immigration status, families with
29 children, creed, religious belief or affiliation, sex, marital
30 status, the presence of any sensory, mental, or physical disability,
31 age, honorably discharged veteran or military status, sexual
32 orientation, gender expression or gender identity, the use of a
33 trained dog guide or service animal by a person with a disability, or
34 any other protected class under RCW 49.60.010, with respect to
35 passengers and potential passengers and notify drivers of such
36 policy.

37 (2) A driver must comply with all applicable laws regarding
38 nondiscrimination against transportation network company riders or

1 potential riders on the basis of race, color, national origin,
2 citizenship or immigration status, families with children, creed,
3 religious belief or affiliation, sex, marital status, the presence of
4 any sensory, mental, or physical disability, age, honorably
5 discharged veteran or military status, sexual orientation, gender
6 expression or gender identity, or any other protected class under RCW
7 49.60.010.

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

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

13 NEW SECTION. **Sec. 26.** Any safety product, feature, process,
14 policy, standard, or other effort undertaken by a transportation
15 network company, or the provision of equipment by a transportation
16 network company, to further public safety is not an indicia of an
17 employment or agency relationship with a driver.

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

20 (1) Individual trip records, except receipts pursuant to section
21 1(9) of this act, for at least three years from the end of the
22 calendar year in which each trip was provided; and

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

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

36 (2) Records provided to the department for inspection under this
37 chapter are exempt from disclosure under chapter 42.56 RCW and are

1 confidential and not subject to disclosure to a third party by the
2 department without prior written consent of the transportation
3 network company.

4 NEW SECTION. **Sec. 29.** The uniform regulation of business and
5 professions act, chapter 18.235 RCW, governs unlicensed practice, the
6 issuance and denial of licenses, and the discipline of licensees
7 under this chapter.

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

10 NEW SECTION. **Sec. 31.** (1) A transportation network company
11 shall not, unless based upon a bona fide occupational qualification,
12 refuse to contract with or terminate the contract of a driver based
13 upon age, sex, marital status, sexual orientation, gender expression
14 or gender identity, race, creed, religious belief or affiliation,
15 color, national origin, citizenship or immigration status, families
16 with children, honorably discharged veteran or military status, the
17 presence of any sensory, mental, or physical disability, the use of a
18 trained guide dog or service animal by a person with a disability, or
19 any other protected class under RCW 49.60.010.

20 (2) Drivers shall have all rights and remedies available under
21 chapter 49.60 RCW solely to enforce this section.

22 NEW SECTION. **Sec. 32.** (1) Except as provided in subsections (2)
23 and (3) of this section, as of the effective date of this section,
24 the state preempts the field of regulating transportation network
25 companies and drivers. No county, city, town, or other municipal
26 corporation may regulate transportation network companies or drivers,
27 or impose any tax, fee, or other charge, on a transportation network
28 company or driver.

29 (2)(a) Except as provided in (b) and (c) of this subsection, a
30 local ordinance or regulation, in a city with a population of more
31 than 600,000 or a county with a population of more than 2,000,000,
32 existing on or before January 1, 2022, that imposes a tax, fee, or
33 other charge on a transportation network company or driver, remains
34 in effect at the rate that exists on or before January 1, 2022. The
35 city or county may continue to collect that tax, fee, or other
36 charge, but may not increase the amount of that tax, fee, or other

1 charge, and may not impose any higher or new taxes, fees, or other
2 charges. This subsection (2)(a) applies retroactively and preempts
3 any increase in the amount of an existing tax, fee, or other charge,
4 or the imposition of any higher or new taxes, fees, or other charges,
5 which occurs between January 2, 2022, and the effective date of this
6 section.

7 (b) Beginning on January 1, 2023, any local ordinance or
8 regulation, in a city or county described in (a) of this subsection,
9 existing on or before the effective date of this section that imposed
10 a per trip tax, fee, or other charge for which, at the time the
11 ordinance became effective, the proceeds were to be used in part to
12 fund a driver conflict resolution center, shall be reduced by \$0.15.
13 The city or county may continue to collect that tax, fee, or other
14 charge, but only at the reduced rate and may not increase the amount
15 of that tax, fee, or other charge, and may not impose any higher or
16 new taxes, fees, or other charges.

17 (c) Any per ride fee imposed by a local ordinance or regulation
18 described in (a) of this subsection, the proceeds of which are used
19 to offset expenses of enforcing the ordinance or regulation, may be
20 adjusted under the following provisions:

21 (i) The city or county demonstrates to the satisfaction of the
22 department that the revenues from the existing per ride fee amount
23 are insufficient to offset the city's or county's cost from
24 enforcement and regulation;

25 (ii) The total amount expected to be collected under the
26 increased amount will not exceed the city or county's total expected
27 costs; and

28 (iii) The department has not authorized an increase in the per
29 ride fee in the last two fiscal years.

30 (3)(a) A local ordinance or regulation in a city with a
31 population of more than six hundred thousand or a county with a
32 population of more than two million, and that existed on or before
33 January 1, 2022, that defined and regulated licensing for
34 transportation network companies and permits for drivers, or the
35 requirements for and processing of applications, certifications,
36 examinations, and background checks for drivers and personal
37 vehicles, remains in effect as the requirements exist on the
38 effective date of this section. The county or city may continue to
39 enforce the ordinance or regulation but may not alter, amend, or
40 implement changes to the ordinance or regulation, or requirements

1 under it, after January 1, 2022, except if such alteration,
2 amendment, or implementation conforms with the requirements of this
3 chapter. This subsection shall apply retroactively to any alteration,
4 amendment, or implementation which occurs between March 10, 2022, and
5 the effective date of this section.

6 (b) Notwithstanding subsection (1) of this section, a local
7 ordinance or regulation in a city with a population of more than six
8 hundred thousand or a county with a population of more than two
9 million, and that existed before January 1, 2022, that is related to
10 requirements covered by sections 1 and 6 through 13 of this act are
11 preempted as of January 1, 2023. The city may continue to enforce the
12 local ordinance or regulation between the effective date of this
13 section and January 1, 2023, but may not alter, amend, or implement
14 changes to the ordinance or regulation, or requirements under it,
15 after January 1, 2022, except if such alteration, or amendment, or
16 implementation conforms with the requirements of this act. This
17 subsection shall apply retroactively to any alteration, amendment, or
18 implementation which occurs between March 10, 2022, and the effective
19 date of this section.

20 (4) Nothing in this chapter shall be interpreted to prevent an
21 airport operator, as defined in RCW 14.08.015, from requiring a
22 transportation network company to enter into a contract or agreement,
23 consistent with the provisions of RCW 14.08.120, governing
24 requirements of the transportation network company on airport
25 property including but not limited to the fees and operational
26 requirements. An airport operator may not impose any requirements
27 through a contract authorized by this section that relate to
28 requirements covered by sections 1, 7, 11, and 13 of this act and RCW
29 49.46.210(5), 51.08.070, 51.08.180, 51.12.020, and 51.16.060.

30 (5) Other than taxes, fees, or other charges imposed explicitly
31 or exclusively on a transportation network company or driver, this
32 section does not preempt any generally applicable taxes, fees, or
33 other charges, such as:

- 34 (a) Business tax;
- 35 (b) Sales and use tax;
- 36 (c) Excise tax; or
- 37 (d) Property tax.

38 **Sec. 33.** RCW 48.177.010 and 2015 c 236 s 2 are each amended to
39 read as follows:

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

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

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

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

31 (B) Underinsured motorist coverage to the extent required under
32 RCW 48.22.030; and

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

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

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

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

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

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

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

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

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

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

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

35 (iii) A combination of both the commercial transportation
36 services provider and the driver.

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

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

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

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

- 26 (a) Liability coverage for bodily injury and property damage;
- 27 (b) Personal injury protection coverage;
- 28 (c) Underinsured motorist coverage;
- 29 (d) Medical payments coverage;
- 30 (e) Comprehensive physical damage coverage; and
- 31 (f) Collision physical damage coverage.

32 (7) Nothing in this section shall be construed to require a
33 private passenger automobile insurance policy to provide primary or
34 excess coverage or a duty to defend for the period of time in which a
35 driver is logged in to a commercial transportation services
36 provider's digital network or software application or while the
37 driver is engaged in a prearranged ride or the driver otherwise uses
38 a vehicle to transport passengers for compensation.

39 (8) Insurers that exclude coverage under subsection (6) of this
40 section have no duty to defend or indemnify any claim expressly

1 excluded under subsection (6) of this section. Nothing in this
2 section shall be deemed to invalidate or limit an exclusion contained
3 in a policy, including any policy in use or approved for use in
4 Washington state before July 24, 2015, that excludes coverage for
5 vehicles used to carry persons or property for a charge or available
6 for hire by the public.

7 (9) An exclusion exercised by an insurer in subsection (6) of
8 this section applies to any coverage selected or rejected by a named
9 insured under RCW 48.22.030 and 48.22.085. The purchase of a rider or
10 endorsement by a driver under subsection (2)(a) of this section does
11 not require a separate coverage rejection under RCW 48.22.030 or
12 48.22.085.

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

17 (a) Except as provided otherwise under subsection (2)(c) of this
18 section, if the driver has been matched with a passenger and is
19 traveling to pick up the passenger, or the driver is providing
20 services to a passenger, the commercial transportation services
21 provider that matched the driver and passenger must provide insurance
22 coverage; or

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

29 (11) In an accident or claims coverage investigation, a
30 commercial transportation services provider or its insurer must
31 cooperate with a private passenger automobile insurance policy
32 insurer and other insurers that are involved in the claims coverage
33 investigation to facilitate the exchange of information, including
34 the provision of (a) dates and times at which an accident occurred
35 that involved a participating driver and (b) within ten business days
36 after receiving a request, a copy of the provider's electronic record
37 showing the precise times that the participating driver logged on and
38 off the provider's digital network or software application on the day
39 the accident or other loss occurred. The commercial transportation
40 services provider or its insurer must retain all data,

1 communications, or documents related to insurance coverage or
2 accident details for a period of not less than the applicable
3 statutes of limitation, plus two years from the date of an accident
4 to which those records pertain.

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

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

13 (14) If an insurer for a commercial transportation services
14 provider makes a payment for a claim covered under comprehensive
15 coverage or collision coverage, the commercial transportation
16 services provider must cause its insurer to issue the payment
17 directly to the business repairing the vehicle or jointly to the
18 owner of the vehicle and the primary lienholder on the covered
19 vehicle.

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

24 WHILE OPERATING ON THE DIGITAL NETWORK OR SOFTWARE APPLICATION OF
25 THE COMMERCIAL TRANSPORTATION SERVICES PROVIDER, YOUR PRIVATE
26 PASSENGER AUTOMOBILE INSURANCE POLICY MIGHT NOT AFFORD LIABILITY,
27 UNDERINSURED MOTORIST, PERSONAL INJURY PROTECTION, COMPREHENSIVE, OR
28 COLLISION COVERAGE, DEPENDING ON THE TERMS OF THE POLICY.

29 IF THE VEHICLE THAT YOU PLAN TO USE TO PROVIDE COMMERCIAL
30 TRANSPORTATION SERVICES FOR OUR COMPANY HAS A LIEN AGAINST IT, YOU
31 MUST NOTIFY THE LIENHOLDER THAT YOU WILL BE USING THE VEHICLE FOR
32 COMMERCIAL TRANSPORTATION SERVICES THAT MAY VIOLATE THE TERMS OF YOUR
33 CONTRACT WITH THE LIENHOLDER.

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

36 NEW SECTION. **Sec. 34.** (1) The commissioner for the employment
37 security department shall commence a work group of stakeholders,
38 comprised of equal representation of industry and labor, to study the

1 appropriate application of Titles 50, 50A, and 50B RCW on
2 transportation network companies and drivers in this state.

3 (2) No later than December 1, 2022, and in compliance with RCW
4 43.01.036, the commissioner must submit a report to the governor and
5 the legislature on findings and suggested changes to state law to
6 establish applicable rates and terms by which transportation network
7 companies and drivers participate in relevant state run programs
8 established pursuant to Titles 50, 50A, and 50B RCW.

9 NEW SECTION. **Sec. 35.** RCW 48.177.010 is recodified as a section
10 in chapter 46.--- RCW (the new chapter created in section 36 of this
11 act).

12 NEW SECTION. **Sec. 36.** Sections 14 through 32 of this act
13 constitute a new chapter in Title 46 RCW.

14 NEW SECTION. **Sec. 37.** (1) Sections 8 through 13 of this act
15 (related to industrial insurance) take effect January 1, 2023.

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

ESHB 2076 - S AMD 1382
By Senator Saldaña

ADOPTED 03/04/2022

18 On page 1, line 2 of the title, after "companies;" strike the
19 remainder of the title and insert "amending RCW 49.46.210, 51.12.020,
20 51.08.070, 51.08.180, 51.16.060, and 48.177.010; adding new sections
21 to chapter 49.46 RCW; adding a new section to chapter 51.16 RCW;
22 adding a new section to chapter 51.04 RCW; adding a new chapter to
23 Title 46 RCW; creating a new section; recodifying RCW 48.177.010; and
24 providing effective dates."

EFFECT: (1) Adds additional protected classes regarding a
transportation network company's (TNC's) nondiscrimination policy and
nondiscrimination laws applicable to passengers and drivers.

(2) Removes the vicarious liability protection applicable to
TNCs.

(3) Adds additional protected classes regarding the basis upon
which a TNC may not refuse to contract with or terminate the contract
of a driver.

(4) Provides that drivers have all the rights and remedies available under chapter 49.60 RCW (Discrimination-Human Rights Commission) solely to enforce the prohibition against certain actions around contracting between TNCs and drivers.

(5) Clarifies that the local preemption exceptions apply only to cities and counties of a certain population (currently Seattle and King County).

(6) Provides that the preemption section may not be construed to preempt any generally applicable taxes, fees, or other charges.

--- END ---