

SUBSTITUTE HOUSE BILL 2076

State of Washington

67th Legislature

2022 Regular Session

By House Labor & Workplace Standards (originally sponsored by Representatives Berry, Simmons, Kloba, Bergquist, Pollet, Kirby, Bronoske, Fitzgibbon, Ryu, and Macri)

READ FIRST TIME 02/03/22.

1 AN ACT Relating to rights and obligations of transportation
2 network company drivers and transportation network companies;
3 amending RCW 49.46.210, 51.12.020, 51.08.070, 51.08.180, 51.16.060,
4 48.177.010, and 81.68.015; adding new sections to chapter 49.46 RCW;
5 adding a new section to chapter 51.16 RCW; adding a new section to
6 chapter 51.04 RCW; adding a new section to chapter 50A.10 RCW; adding
7 a new chapter to Title 46 RCW; and recodifying RCW 48.177.010.

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

PART I

WAGES, DEACTIVATION, AND DRIVER RESOURCE CENTER

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

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

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

19 (b) "Dispatch" means the dispatch of a driver to provide
20 transportation to a passenger in a transportation network company

1 endorsed vehicle through the use of a transportation network
2 company's application dispatch system.

3 (c) "Dispatch location" means the location of the driver at the
4 time the driver accepts a trip request through the driver platform.

5 (d) "Dispatch platform time" means the time when a driver has
6 accepted one or more dispatches and is en route to a pick-up location
7 and is not already transporting a passenger. Dispatch platform time
8 ends when a passenger cancels a trip, a driver cancels a trip, or the
9 driver begins the trip through the driver platform.

10 (e) "Driver" has the same meaning as "commercial transportation
11 services provider driver" in RCW 48.177.005. A driver is not an
12 employee or agent of a transportation network company if the
13 following factors are met:

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

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

21 (iii) The transportation network company does not prohibit the
22 driver from performing services through other transportation network
23 companies except while performing services through the transportation
24 network company's online-enabled application or platform; and

25 (iv) The transportation network company does not contractually
26 prohibit the driver from working in any other lawful occupation or
27 business.

28 (f) "Driver platform" means the driver-facing application
29 dispatch system software or any online-enabled application service,
30 website, or system, used by a driver, that enables the prearrangement
31 of passenger trips for compensation.

32 (g) "Driver resource center" or "center" means a nonprofit
33 organization selected by the governor to provide services to drivers.
34 To be selected by the governor, the nonprofit organization must be
35 registered with the Washington secretary of state, have
36 organizational bylaws giving drivers right to membership in the
37 organization, and have demonstrated experience: (i) Providing dispute
38 resolution and deactivation representation services to gig economy
39 drivers in Washington state, including representing drivers in
40 deactivation appeals proceedings; and (ii) providing culturally

1 competent driver representation services, outreach, and education.
2 The administration and formation of the driver resource center may
3 not be funded, excessively influenced, or controlled by a
4 transportation network company. The governor or governor's designee
5 shall select a qualified nonprofit organization to be the driver
6 resource center within 60 days of the effective date of this section.

7 (h) "Driver resource center fund" or "fund" means the dedicated
8 fund created in section 2 of this act, the sole purpose of which is
9 to administer funds collected from transportation network companies
10 to provide services, support, and benefits to drivers.

11 (i) "Network services" means services related to the
12 transportation of passengers through the driver platform that are
13 provided by a driver while logged in to the driver platform,
14 including services provided during available platform time, dispatch
15 platform time, and passenger platform time.

16 (j) "Passenger" has the same meaning as "commercial
17 transportation services provider passenger" in RCW 48.177.005.

18 (k) "Passenger drop-off location" means the location of a
19 driver's vehicle when the driver ends the trip in the driver
20 platform.

21 (l) "Passenger pick-up location" means the location of the
22 driver's vehicle at the time the driver starts the trip in the driver
23 platform.

24 (m) "Passenger platform miles" means all miles driven during
25 passenger platform time as recorded in a transportation network
26 company's driver platform.

27 (n) "Passenger platform time" means the period of time when the
28 driver is transporting one or more passengers on a trip. For
29 passenger platform time involving multiple passengers picked up from
30 different passenger pick-up locations, passenger platform time means
31 the period of time commencing when the first passenger enters the
32 driver's vehicle until the time when the last passenger exits the
33 driver's vehicle.

34 (o) "Personal vehicle" has the same meaning as "personal vehicle"
35 in RCW 48.177.005.

36 (p) "Tips" means a verifiable sum to be presented by a passenger
37 as a gift or gratuity in recognition of some service performed for
38 the passenger by the driver receiving the tip.

39 (q) "Transportation network company" has the same meaning as
40 "commercial transportation services provider" in RCW 48.177.005.

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

3 (3)(a) A transportation network company is covered by this
4 section if it operates within the state of Washington.

5 (b) Separate entities that form an integrated enterprise are
6 considered a single transportation network company under this
7 section. Separate entities will be considered an integrated
8 enterprise and a single transportation network company where a
9 separate entity controls the operation of another entity. Factors to
10 consider include, but are not limited to, the degree of interrelation
11 between the operations of multiple entities; the degree to which the
12 entities share common management; the centralized control of labor
13 relations; the degree of common ownership or financial control over
14 the entities; and the use of a common brand, trade, business, or
15 operating name.

16 (4)(a) A transportation network company shall ensure that a
17 driver's total compensation is not less than the standard set forth
18 in (b) or (c) of this subsection.

19 (b) For all time and miles on trips originating in cities with a
20 population of more than 600,000, and for time and miles on trips
21 driven in cities with a population of more than 600,000, the greater
22 of:

23 (i) \$0.59 cents per minute and \$1.38 per passenger platform mile;

24 or

25 (ii) A minimum of \$5.17 per dispatched trip.

26 (c) For all other trips, the greater of:

27 (i) \$0.34 cents per minute and \$1.17 per passenger platform mile;

28 or

29 (ii) A minimum of \$5.00 per dispatched trip.

30 (d) Beginning September 30, 2022, and on each following September
31 30th, the department shall calculate adjusted per mile and per minute
32 amounts by increasing the current year's per mile and per minute
33 amounts by the rate of increase of the state minimum wage, calculated
34 to the nearest cent. The adjusted amount calculated under this
35 section takes effect on the following January 1st.

36 (5)(a) For the purposes of this section, a dispatched trip
37 includes:

38 (i) A trip in which the driver transports the passenger to the
39 passenger's desired drop-off location;

1 (ii) A trip canceled by a passenger or the transportation network
2 company unless the transportation network company refunds the
3 passenger cancellation fee due to driver conduct;

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

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

8 (b) A dispatched trip does not include a trip canceled by the
9 driver, unless the trip is canceled for good cause as reasonably
10 allowed under this section.

11 (6)(a) A transportation network company shall pay to its drivers
12 all tips and gratuities. Tips paid to a driver are in addition to,
13 and may not count towards, the driver's minimum compensation under
14 this section.

15 (b) Incentives may count towards the minimum compensation
16 requirements only for the particular trip in which the incentives are
17 earned.

18 (c) Tolls, fees, or surcharges incurred by a driver during a trip
19 must not impact minimum compensation requirements.

20 (d) A transportation network company may only deduct compensation
21 when the driver expressly authorizes the deduction in writing and
22 does so in advance for a lawful purpose. Any authorization by a
23 driver must be voluntary and knowing. Neither the transportation
24 network company nor any person acting in the interest of the
25 transportation network company may derive any financial profit or
26 benefit from any of the deductions under this section. For the
27 purposes of this section, reasonable interest charged by the
28 transportation network company or any person acting in the interest
29 of a transportation network company, for a loan or credit extended to
30 the driver, is not considered to be of financial benefit to the
31 transportation network company or person acting in the interest of a
32 transportation network company.

33 (7) A transportation network company may not impose vehicle age
34 limits in any product classes that are more restrictive than limits
35 provided by state or local law.

36 (8)(a) A transportation network company shall provide each driver
37 with a written notice of rights established by this section in a form
38 and manner sufficient to inform drivers of their rights under this
39 section. The notice of rights shall provide information on:

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

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

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

11 (b) A transportation network company shall provide the notice of
12 rights required by this section in an electronic format that is
13 readily accessible to the driver. The notice of rights shall be made
14 available to the driver via smartphone application or online web
15 portal, in English and any language that the transportation network
16 company knows or has reason to know is the primary language of the
17 driver.

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

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

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

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

25 (d) Passenger fare;

26 (e) 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 (f) Tip compensation;

31 (g) Gross payment;

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

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

36 (j) Pursuant to rules issued by the department, other information
37 that is material and necessary to effectuate the terms of this
38 section.

39 (10) A transportation network company shall make driver per-trip
40 receipts available in a downloadable format, such as a comma-

1 separated values file, via smartphone application or online web
2 portal for a period of three years from the date the transportation
3 network company provided the receipt to the driver.

4 (11) On a weekly basis, the transportation network company shall
5 provide written notice to the driver that contains the following
6 information for trips, or a portion of a trip, that is covered by
7 this section and which occurred 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) Total amount of passenger fares;

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

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

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

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

23 (h) Pursuant to rules issued by the department, other information
24 that is material and necessary to effectuate the terms of this
25 section.

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

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

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

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

1 (d) The driver's first name;

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

3 (f) Compensation paid to the driver with passenger-paid tips
4 separately itemized; and

5 (g) Pursuant to rules issued by the director, other information
6 that is material and necessary to effectuate the terms of this
7 section.

8 (13)(a) Beginning 90 days from the effective date of this
9 section, transportation network companies shall remit \$0.15 cents of
10 every passenger fare to the driver resource center fund, created in
11 section 2 of this act, for the driver resource center to support the
12 driver community. The remittance under this subsection is a pass-
13 through of passenger fares and is not considered a transportation
14 network company's funding of the driver resource center. Passenger
15 fares paid include each individual trip portion on shared trips. The
16 remittances to the fund must be made on a quarterly basis.

17 (b) Beginning September 30, 2022, and on each following September
18 30th, the department shall calculate an adjusted per trip remittance
19 by adjusting the current amount by the rate of inflation. The
20 adjusted amounts must be calculated to the nearest cent using the
21 consumer price index for urban wage earners and clerical workers,
22 CPI-W, or a successor index, for the 12 months prior to each
23 September 1st as calculated by the United States department of labor.
24 Each adjusted amount calculated under this subsection takes effect on
25 the following January 1st.

26 (14) Transportation network companies shall provide an
27 opportunity for drivers to make voluntary per-trip earnings deduction
28 contributions to the driver resource center, provided that 100 or
29 more drivers working for transportation network companies covered
30 under this section have authorized such a deduction to the driver
31 resource center, and subject to the following:

32 (a) A driver must expressly authorize the deduction in writing to
33 the transportation network company. Written authorization must
34 include, at a minimum, sufficient information to identify the driver
35 and the driver's desired per-trip deduction amount. These deductions
36 may reduce the driver's per-trip earnings below the minimums set
37 forth in this section.

38 (b) The transportation network company may require written
39 authorization to be submitted in electronic format from the driver
40 resource center.

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

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

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

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

16 (15)(a) If the transportation network company does not collect
17 and remit the surcharges required under subsection (13) of this
18 section of every fare and, when applicable, under subsection (14) of
19 this section, the department shall notify the department of
20 licensing.

21 (b) Each transportation network company shall submit to the fund,
22 with its remittance, a report detailing the number of trips in the
23 previous month and the total amount of the surcharge charged to
24 customers. The first payment and accounting is due on the 30th day of
25 the quarter following the imposition of the surcharge. Failure to
26 remit payments by the deadlines is deemed a delinquency and the
27 transportation network company is subject to penalties and interest
28 as follows:

29 (i) The rate of interest applicable to delinquent payment
30 obligations under this section is 12 percent per annum, or the
31 maximum rate permitted under RCW 19.52.020.

32 (ii) Any monetary penalty imposed under this section must be
33 retained by the department and be used to defray the costs of
34 administering this section. A transportation network company that is
35 found, after a hearing held pursuant to chapter 34.12 RCW, to be in
36 default to the fund for assessments owed under this section is liable
37 for the amount of the assessments determined to be due and
38 outstanding, plus interest on the amounts owed and any monetary
39 penalties imposed under this section.

1 (iii) If a transportation network company fails to pay any
2 assessments or penalties awarded under this section within 20 days of
3 issuance of a valid order to pay, the transportation network company
4 is liable for all amounts wrongfully withheld, plus interest as
5 provided for in this subsection, and reasonable attorneys' fees and
6 costs.

7 (16)(a) The state expressly intends to displace competition with
8 regulation allowing a transportation network company and its drivers
9 collectively to enter agreements with the driver resource center. The
10 state policy is to promote the rights of drivers and transportation
11 network companies and provide fair processes related to driver
12 account activation. The state intends that any agreement under this
13 section is immune from all federal and state antitrust laws. A
14 transportation network company may, at its own volition, enter into
15 an agreement with the driver resource center regarding the driver
16 account deactivation process. Any agreement must be approved by the
17 department. The department may approve an agreement only if the
18 agreement contains the following:

19 (i) The agreement must provide due process for drivers who face
20 account deactivation. Due process must include the following
21 protections:

22 (A) Opportunity for a driver representative to support drivers
23 throughout the deactivation process;

24 (B) An agreed-upon just cause standard for upholding
25 deactivations;

26 (C) Within 30 calendar days of a request, furnishing to the
27 driver and driver representative information and evidence the
28 transportation network company relied upon in making the deactivation
29 decision, provided that personal identifying information is redacted
30 to address reasonable privacy concerns;

31 (D) A good faith, substantive informal resolution process that is
32 committed to efficient resolution of deactivation conflicts within 30
33 days of the transportation network company being notified of the
34 conflict;

35 (E) A formal process for adjudication by a panel composed of peer
36 drivers mutually selected by the transportation network company and
37 the driver resource center and administered by a neutral third-party
38 moderator. The panel has the authority to make binding, make-whole
39 monetary awards, including back pay, based on an agreed-upon formula
40 for cases not resolved during the informal process; and

1 (F) Agreement by the transportation network company to use the
2 formal process set forth in this subsection to resolve disputes over
3 deactivations as an alternative to individual arbitration with regard
4 to such a dispute, should the driver so choose; and

5 (ii) An ongoing process for drivers to have a voice in working
6 conditions, including policy changes that impact their work.

7 (b) Any agreement under this section must be submitted to the
8 department for approval. The department shall review the agreement to
9 ensure that its content is consistent with this subsection and the
10 public policy goals set forth in this subsection. The department
11 shall consider in its review both qualitative and quantitative
12 effects of the agreement, how the agreement comports with the state
13 policies set forth in this section, and any available business data
14 and economic studies. In conducting a review, the record shall not be
15 limited to the submissions of the parties nor to the terms of the
16 proposed agreement. The department shall have the right to gather and
17 consider any necessary evidence, including by conducting public
18 hearings and requesting additional information from the parties. The
19 department may approve or reject a proposed agreement, and may
20 require the parties to submit a revised proposal on all or particular
21 parts of the proposed agreement. If the department rejects all or
22 part of an agreement, it shall set forth its reasoning in writing and
23 shall suggest ways the parties may remedy the failures. Absent good
24 cause, the department shall issue a written determination regarding
25 its approval, rejection, or any suggestions in the event of rejection
26 of all or part of the agreement, within 30 days of submission of the
27 agreement.

28 (17) The department may adopt rules to implement this section.

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

31 (1) The driver resource center fund is created in the custody of
32 the state treasurer.

33 (2) All moneys received from the remittance in section 1 of this
34 act must be deposited into the fund.

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

1 (4) The department may make expenditures from the fund for the
2 following purposes:

3 (a) Services provided by the driver resource center under
4 contract, including services, representation, and other support to
5 drivers. The department must distribute funding received by the
6 account, exclusive of the department's administrative costs deducted
7 under (b) of this subsection, to the center on a quarterly basis; and

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

11 **PART II**
12 **PAID SICK LEAVE**

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

15 (1) Beginning January 1, 2018, except as provided in RCW
16 49.46.180, every employer shall provide each of its employees paid
17 sick leave as follows:

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

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

25 (i) An absence resulting from an employee's mental or physical
26 illness, injury, or health condition; to accommodate the employee's
27 need for medical diagnosis, care, or treatment of a mental or
28 physical illness, injury, or health condition; or an employee's need
29 for preventive medical care;

30 (ii) To allow the employee to provide care for a family member
31 with a mental or physical illness, injury, or health condition; care
32 of a family member who needs medical diagnosis, care, or treatment of
33 a mental or physical illness, injury, or health condition; or care
34 for a family member who needs preventive medical care; and

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

1 (c) An employee is authorized to use paid sick leave for absences
2 that qualify for leave under the domestic violence leave act, chapter
3 49.76 RCW.

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

7 (e) Employers are not prevented from providing more generous paid
8 sick leave policies or permitting use of paid sick leave for
9 additional purposes.

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

13 (g) For absences exceeding three days, an employer may require
14 verification that an employee's use of paid sick leave is for an
15 authorized purpose. If an employer requires verification,
16 verification must be provided to the employer within a reasonable
17 time period during or after the leave. An employer's requirements for
18 verification may not result in an unreasonable burden or expense on
19 the employee and may not exceed privacy or verification requirements
20 otherwise established by law.

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

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

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

33 (k) This section does not require an employer to provide
34 financial or other reimbursement for accrued and unused paid sick
35 leave to any employee upon the employee's termination, resignation,
36 retirement, or other separation from employment. When there is a
37 separation from employment and the employee is rehired within twelve
38 months of separation by the same employer, whether at the same or a
39 different business location of the employer, previously accrued
40 unused paid sick leave shall be reinstated and the previous period of

1 employment shall be counted for purposes of determining the
2 employee's eligibility to use paid sick leave under subsection (1)(d)
3 of this section.

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

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

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

14 (c) A spouse;

15 (d) A registered domestic partner;

16 (e) A grandparent;

17 (f) A grandchild; or

18 (g) A sibling.

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

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

25 (5)(a) The definitions in this subsection apply to this
26 subsection:

27 (i) "Average hourly earnings" means a driver's earnings from, or
28 facilitated by, the transportation network company, during the 365
29 days immediately prior to the day that paid sick time is used,
30 divided by the total hours of passenger platform time worked by the
31 driver on that transportation network company's driver platform
32 during that period.

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

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

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

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

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

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

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

19 (h) A driver is entitled to use paid sick leave during a
20 deactivation or other status that prevents the driver from performing
21 network services on the transportation network company's platform,
22 unless the driver's status is due to a verified allegation of sexual
23 assault perpetrated by the driver.

24 (i) If a driver does not record any passenger platform time in a
25 transportation network company's driver platform for 365 or more
26 consecutive days or the driver's contract with a transportation
27 network company is terminated, any unused earned paid sick leave
28 accrued up to that point with that transportation network company is
29 no longer valid or recognized.

30 (j) Drivers may use accrued days of paid sick leave in increments
31 of a minimum of four or more hours. Drivers are entitled to request
32 four or more hours of paid sick leave for immediate use, including
33 consecutive days of use. Drivers are not entitled to use more than
34 eight hours of paid sick leave within a single calendar day.

35 (k) A transportation network company shall compensate a driver
36 for requested hours or days of paid sick leave no later than 14
37 calendar days or the next regularly scheduled date of compensation
38 following the requested hours or days of paid sick leave.

39 (l) A transportation network company shall not request or require
40 reasonable verification of a driver's qualifying illness except as

1 permitted under subsection (1)(g) of this section. If a
2 transportation network company requires verification pursuant to
3 subsection (1)(g) of this section, the transportation network company
4 must compensate the driver for the requested hours or days of paid
5 sick leave no later than the driver's next regularly scheduled date
6 of compensation after satisfactory verification is provided.

7 (m) If a driver accepts an offer of prearranged services for
8 compensation from a transportation network company during the four-
9 hour period or periods for which the driver requested paid sick
10 leave, a transportation network company may determine that the driver
11 did not use paid sick leave for an authorized purpose.

12 (n) A transportation network company shall provide each driver
13 with: (i) Written notification of the current rate of average hourly
14 compensation while a passenger is in the vehicle during the most
15 recent calendar month for use of paid sick leave; (ii) an updated
16 amount of accrued paid sick leave since the last notification; (iii)
17 reduced paid sick leave since the last notification; (iv) any unused
18 paid sick leave available for use; and (v) any amount that the
19 transportation network company may subtract from the driver's
20 compensation for paid sick leave. The transportation network company
21 shall provide this information to the driver no less than monthly.
22 The transportation network company may choose a reasonable system for
23 providing this notification, including but not limited to: A pay
24 stub; a weekly summary of compensation information; or an online
25 system where drivers can access their own paid sick leave
26 information. A transportation network company is not required to
27 provide this information to a driver if the driver has not worked any
28 days since the last notification.

29 **PART III**
30 **INDUSTRIAL INSURANCE**

31 **Sec. 4.** 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. 5.** 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) For the purposes of this title only, "employer" includes a
24 transportation network company as defined in section 1 of this act
25 while the driver is engaged in passenger platform time and dispatch
26 platform time, as those terms are defined in section 1 of this act.

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

29 (1) "Worker" means every person in this state who is engaged in
30 the employment of an employer under this title, whether by way of
31 manual labor or otherwise in the course of his or her employment;
32 also every person in this state who is engaged in the employment of
33 or who is working under an independent contract, the essence of which
34 is his or her personal labor for an employer under this title,
35 whether by way of manual labor or otherwise, in the course of his or
36 her employment, or as an exception to the definition of worker, a
37 person is not a worker if he or she meets the tests set forth in
38 subsections (1) through (6) of RCW 51.08.195 or the separate tests

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

7 (2) For the purposes of this title only, "worker" includes a
8 transportation network company driver, as defined in section 1 of
9 this act, while engaged in passenger platform time and dispatch
10 platform time, as those terms are defined in section 1 of this act.

11 NEW SECTION. **Sec. 7.** A new section is added to chapter 51.16
12 RCW to read as follows:

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

19 (2) For the purposes of premium rates for transportation network
20 companies, the department shall compute premium rates based on hours
21 worked by the drivers of transportation network companies while
22 engaged in passenger platform time and dispatch platform time.
23 However, for rates in 2023, the rate assessed must be equivalent to
24 taxicab companies. For each subsequent year, the department shall
25 calculate an adjusted premium rate by adjusting the current amount by
26 the rate of inflation. The adjusted amounts must be calculated using
27 the consumer price index for urban wage earners and clerical workers,
28 CPI-W, or a successor index, for the 12 months prior to each January
29 1st as calculated by the United States department of labor.

30 (3) The department may adopt rules to carry out the purposes of
31 this section, including rules providing for alternative reporting
32 requirements, alternative reporting periods, and payment due dates
33 for coverage under this section.

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

36 ((Every)) Except as provided in section 7 of this act, every
37 employer not qualifying as a self-insurer, shall insure with the
38 state and shall, on or before the last day of January, April, July

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

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

38 (1) The application of this chapter to a transportation network
39 company, as defined in section 1 of this act, shall not be indicative

1 of, or considered a factor in determining, the existence of an
2 employer-employee relationship between the transportation network
3 company and driver for purposes of any other rights, benefits, or
4 obligations under other state and local employment laws.

5 (2) A transportation network company's compliance with this
6 chapter satisfies any obligation under any local law requiring
7 compensation or benefits for workplace injuries or occupational
8 disease.

9 **PART IV**

10 **PAID FAMILY MEDICAL LEAVE**

11 NEW SECTION. **Sec. 10.** A new section is added to chapter 50A.10
12 RCW to read as follows:

13 (1) A driver, as defined in section 1 of this act, is not
14 considered an "employee" as defined under RCW 50A.05.010. A
15 transportation network company, as defined in section 1 of this act,
16 is not considered an "employer" as defined under RCW 50A.05.010.

17 (2) This section only applies to election of coverage under Title
18 50A RCW.

19 (3) For benefits payable beginning January 1, 2024, a driver may
20 elect coverage under this section.

21 (4) Prior to the driver filing a notice of election in writing
22 with the department, the driver must send written notice of the
23 intent to elect coverage to the transportation network company or
24 companies for which the driver provides network services.

25 (5) The transportation network company for which the driver
26 provides services is responsible to pay and remit to the department
27 the employee share of the premiums under RCW 50A.10.030 on behalf of
28 the driver each quarter.

29 (6) For the purposes of this section, in the form and at the
30 times specified in this title and by the commissioner, a
31 transportation network company for whom a driver who provides
32 services has elected coverage, shall make reports and pay and remit
33 premiums to the department as required by an employer under RCW
34 50A.20.030.

35 (7) The department may adopt rules to implement this section and
36 must adopt procedures to address a transportation network company's
37 failure to meet the requirements of this section.

1 **PART V**

2 **STATEWIDE REGULATORY REQUIREMENTS**

3 NEW SECTION. **Sec. 11.** The purpose of this chapter is to:
4 Provide statewide uniform regulation for transportation network
5 companies within the state of Washington, encourage technological
6 innovation, and preserve and enhance access to important
7 transportation options for residents and visitors to Washington
8 state.

9 NEW SECTION. **Sec. 12.** The definitions in section 1 of this act
10 apply throughout this chapter, except that:

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

12 (2) "Digital network" means any online-enabled technology
13 application service, website, or system offered or utilized by a
14 transportation network company that enables the prearrangement of
15 rides with transportation network company drivers.

16 NEW SECTION. **Sec. 13.** (1) A transportation network company or
17 transportation network company driver is not a common carrier, motor
18 carrier, or any other carrier as defined in RCW 81.80.010, and does
19 not provide for hire transportation service, commuter ride sharing,
20 taxicab, auto transportation company services, or metropolitan public
21 transportation services pursuant to chapter 35.58, 46.72, 46.73,
22 81.68, or 81.72 RCW.

23 (2) A transportation network company driver is not required to
24 register a transportation network company vehicle used to provide
25 prearranged rides as a commercial vehicle or for hire vehicle.

26 NEW SECTION. **Sec. 14.** (1) A person must first obtain a permit
27 from the department to operate a transportation network company in
28 Washington state, except that any transportation network company
29 operating in the state before the effective date of this section may
30 continue operating until the department creates a permit process and
31 sets a registration deadline.

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

1 (3) The department shall not issue, continue, or renew any permit
2 to operate a transportation network company unless the transportation
3 network company adds and collects the surcharges required under
4 section 1 of this act.

5 NEW SECTION. **Sec. 15.** Any transportation network company
6 operating in Washington state must maintain an agent for service of
7 process in the state.

8 NEW SECTION. **Sec. 16.** (1) Before a rider enters a
9 transportation network company vehicle, the transportation network
10 company must provide, on behalf of the transportation network company
11 driver, either the fare for the prearranged ride or the option to
12 receive an estimated fare for the prearranged ride.

13 (2) During the first 30 days of a state of emergency, as declared
14 by the governor or the president of the United States, a
15 transportation network company may not charge a fare for
16 transportation network company services provided to any
17 transportation network company rider that exceeds two and one-half
18 times the fare that would otherwise be applicable for the prearranged
19 ride.

20 NEW SECTION. **Sec. 17.** A transportation network company's
21 digital network or website must display a photograph of the
22 transportation network company driver and the license plate number of
23 the transportation network company vehicle.

24 NEW SECTION. **Sec. 18.** (1) A transportation network company must
25 implement a zero tolerance policy regarding a transportation network
26 company driver's activities while accessing the transportation
27 network company's digital network. The zero tolerance policy must
28 address the use of drugs or alcohol while a transportation network
29 company driver is providing prearranged rides or is logged in to the
30 transportation network company's digital network but is not providing
31 prearranged rides.

32 (2) A transportation network company must provide notice of this
33 policy on its website, as well as procedures to report a complaint
34 about a transportation network company driver with whom a
35 transportation network company rider was matched and whom the rider

1 reasonably suspects was under the influence of drugs or alcohol
2 during the course of the trip.

3 (3) A transportation network company must maintain records
4 relevant to the enforcement of the policy under this section for a
5 period of at least two years from the date that a transportation
6 network company rider complaint is received by the transportation
7 network company.

8 NEW SECTION. **Sec. 19.** (1) Before allowing an individual to
9 accept trip requests as a transportation network company driver
10 through a transportation network company's digital network and
11 annually thereafter:

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

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

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

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

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

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

32 (a) Has had more than three moving violations in the prior three-
33 year period, or one of the following major violations in the prior
34 three-year period:

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

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

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

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

- 1 (i) Any class A or B felony in Title 9A RCW;
2 (ii) Any violent offense as defined in RCW 9.94A.030 or serious
3 violent offense as defined in RCW 9.94A.030;
4 (iii) Any most serious offense as defined in RCW 9.94A.030; or
5 (iv) Driving under the influence, hit and run, or any other
6 driving-related crime pursuant to RCW 46.61.500 through 46.61.540;
7 (c) Has been convicted of any sex offense as defined in RCW
8 9.94A.030 or is a match in the United States department of justice
9 national sex offender public website;
10 (d) Does not possess a valid driver's license;
11 (e) Does not possess proof of automobile liability insurance for
12 the motor vehicle or vehicles used to provide prearranged rides;
13 (f) Is not at least 20 years of age; or
14 (g) Has not self-certified that he or she is physically and
15 mentally fit to be a transportation network company driver.
16 (3) Subsection (2)(a) and (b) of this section applies to any
17 conviction of any offense committed in another jurisdiction that
18 includes all of the elements of any of the offenses described or
19 defined in subsection (2)(a) and (b) of this section.

20 NEW SECTION. **Sec. 20.** (1) A transportation network company must
21 require that any motor vehicle that a transportation network company
22 driver will use to provide prearranged rides:

- 23 (a) Is not more than 12 years old as determined by the model year
24 of the vehicle;
25 (b) Meets the emissions requirements for motor vehicles; and
26 (c) Has received a safety inspection by a third party in the last
27 year that includes the following components:
28 (i) Foot brakes;
29 (ii) Parking brakes;
30 (iii) Steering mechanism;
31 (iv) Windshield;
32 (v) Rear window and other glass;
33 (vi) Windshield wipers;
34 (vii) Headlights;
35 (viii) Taillights;
36 (ix) Brake lights;
37 (x) Front seat adjustment mechanism;
38 (xi) Doors;
39 (xii) Turn signal lights;

- 1 (xiii) Horn;
- 2 (xiv) Speedometer;
- 3 (xv) Bumpers;
- 4 (xvi) Muffler and exhaust system;
- 5 (xvii) Tires, including tread depth;
- 6 (xviii) Interior and exterior mirrors; and
- 7 (xix) Safety belts.

8 (2) All transportation network company vehicles must display
9 trade dress that is visible to the rider when outside the vehicle
10 when providing transportation network company services.

11 (3) A transportation network company must inform a transportation
12 network company driver of the driver's responsibility to comply with
13 all applicable safety recalls issued by a vehicle manufacturer or the
14 national highway traffic safety administration for each motor vehicle
15 the driver will use to provide prearranged rides.

16 NEW SECTION. **Sec. 21.** A transportation network company driver
17 may not:

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

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

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

25 NEW SECTION. **Sec. 22.** (1) A transportation network company must
26 adopt a policy of nondiscrimination on the basis of destination,
27 race, color, national origin, religious belief or affiliation, sex,
28 disability, age, sexual orientation, or gender identity with respect
29 to transportation network company riders and potential riders and
30 notify transportation network company drivers of such policy.

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

36 (3) A transportation network company driver must comply with all
37 applicable laws relating to the transportation of service animals.

1 (4) A transportation network company may not impose additional
2 charges for providing services to persons with disabilities because
3 of those disabilities.

4 NEW SECTION. **Sec. 23.** A transportation network company must
5 maintain the following records:

6 (1) Individual trip records for at least three years from the end
7 of the calendar year in which each trip was provided; and

8 (2) Individual records of transportation network company drivers
9 at least until the end of the calendar year marking the three-year
10 anniversary of the date on which a transportation network company
11 driver's relationship with the transportation network company has
12 ended.

13 NEW SECTION. **Sec. 24.** (1) For the sole purpose of verifying
14 that a transportation network company is in compliance with the
15 requirements of this chapter and no more than twice per year, the
16 department may review a sample of records that the transportation
17 network company is required to maintain under this chapter. The
18 sample of records must be chosen randomly by the department in a
19 manner agreeable to both parties. Any record sample furnished to the
20 department may exclude information that would reasonably identify
21 specific transportation network company drivers or riders.

22 (2) Records provided to the department for inspection under this
23 chapter are exempt from disclosure under chapter 42.56 RCW and are
24 confidential and not subject to disclosure to a third party by the
25 department without prior written consent of the transportation
26 network company.

27 NEW SECTION. **Sec. 25.** (1) If the department determines, after
28 notice and a hearing, that a transportation network company is in
29 violation of this chapter or any rule adopted under this chapter or
30 in violation of section 1 of this act or any rule adopted pursuant to
31 section 1 of this act, the department may issue a monetary penalty or
32 suspend or revoke a transportation network company permit, or both,
33 in accordance with this chapter. In determining the amount of any
34 monetary penalty, the department must consider the size of the
35 transportation network company based on the number of intrastate
36 trips provided by the transportation network company in the previous
37 calendar year, the gravity of the violation, the degree to which the

1 transportation network company exercised good faith in attempting to
2 achieve compliance or to remedy noncompliance, and any previous
3 violations by the transportation network company cited by the
4 department. Any deceptive, manipulative, or coordinated practice used
5 by a transportation network company to evade authorities, including
6 through the use of a digital network or the system supporting the
7 digital network, is a violation of this chapter.

8 (2) The department must adopt rules to establish a process for
9 the administrative appeal of any penalty, suspension, or revocation
10 imposed by the department in accordance with this section.

11 NEW SECTION. **Sec. 26.** The uniform regulation of business and
12 professions act, chapter 18.235 RCW, governs unlicensed practice, the
13 issuance and denial of licenses, and the discipline of licensees
14 under this chapter.

15 NEW SECTION. **Sec. 27.** The director may adopt rules consistent
16 with and as necessary to carry out this chapter.

17 NEW SECTION. **Sec. 28.** (1) A transportation network company is
18 not vicariously, jointly, or severally liable for injury to persons
19 or property that results or arises out of the use, operation, or
20 possession of a motor vehicle operating as a personal vehicle while
21 the driver is logged on to the driver platform if:

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

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

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

30 NEW SECTION. **Sec. 29.** (1) A transportation network company
31 driver, transportation network company, any of the company's agents,
32 or any person acting on behalf of a transportation network company
33 may not take adverse action against any transportation network
34 company rider or riders if:

35 (a) The rider or former rider has informed any other person or
36 made a good faith complaint, or the driver or transportation network

1 company believes a rider has informed any other person or made a
2 complaint, including to the driver, the transportation network
3 company, the department, the attorney general, or any other person,
4 that the driver or transportation network company engaged in conduct
5 that the rider reasonably believes violates this chapter;

6 (b) The rider or former rider has sought information about the
7 rider's rights under this chapter or informed others about their
8 rights under this chapter; or

9 (c) The rider or former rider has, or the driver or
10 transportation network company believes a rider has, otherwise
11 exercised rights protected under this chapter.

12 (2) For purposes of this section, "adverse action" means revoking
13 or denying services.

14 NEW SECTION. **Sec. 30.** (1) The legislature finds that the
15 practices covered under this chapter are matters vitally affecting
16 the public interest for the purpose of applying chapter 19.86 RCW. A
17 violation of this chapter is not reasonable in relation to the
18 development and preservation of business and is an unfair or
19 deceptive act in trade or commerce and an unfair method of
20 competition for the purpose of applying chapter 19.86 RCW.

21 (2) The attorney general must maintain a toll-free number for
22 complaints from transportation network company riders or former
23 riders related to this chapter and maintain a website to inform
24 riders of their rights under this chapter.

25 (3) The transportation network company must maintain data
26 regarding transportation network company rider complaints. The
27 department and attorney general must have access to the data pursuant
28 to lawful process.

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

35 (2) (a) Except as provided in (b) of this subsection, a local
36 ordinance or regulation existing on or before the effective date of
37 this section that imposes a tax, fee, or surcharge on a
38 transportation network company or driver remains in effect at the

1 rate that exists on or before the effective date of this section. The
2 county, city, town, or other municipal corporation may continue to
3 collect that tax, fee, or surcharge, but may not increase the amount
4 of that tax, fee, or surcharge, and may not impose any higher or new
5 taxes, fees, or surcharges.

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

16 (3) (a) A local ordinance or regulation existing on or before the
17 effective date of this section that regulated licensing for
18 transportation network companies and permits for drivers, or the
19 requirements for and processing of applications, certifications,
20 examinations, and background checks for drivers and personal
21 vehicles, remains in effect as the requirements exist on the
22 effective date of this section. The county, city, town, or other
23 municipality may continue to enforce any ordinance or regulation but
24 may not alter or amend the requirements, except if such alteration or
25 amendment conforms with the requirements of sections 11 through 30 of
26 this act.

27 (b) A transportation network company with an agreement with the
28 driver resource center that is approved by the department is deemed
29 to satisfy any and all obligations under any local ordinance or
30 regulation pertaining to requirements covered by section 1 of this
31 act. So long as the agreement is in effect, local ordinances or
32 regulations that, under (a) of this subsection, are not preempted and
33 relate to wages and working conditions of drivers do not apply and
34 may not be enforced against the transportation network company.

35 (c) Nothing in (a) of this subsection is intended to create any
36 exception to the field preemption established by subsection (1) of
37 this section for any local ordinance or regulation related to
38 requirements covered by sections 1 and 3 through 10 of this act. All
39 such ordinances or regulations are preempted and may not be enforced
40 by any county, city, town, or other municipal corporation.

1 (4) Nothing in this section shall be interpreted to prevent an
2 airport operator, as defined in RCW 14.08.015, from requiring a
3 transportation network company to enter into a contract or agreement,
4 consistent with the provisions of RCW 14.08.120, governing
5 requirements of the transportation network company on airport
6 property including but not limited to the fees and operational
7 requirements.

8 **Sec. 32.** RCW 48.177.010 and 2015 c 236 s 2 are each amended to
9 read as follows:

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

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

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

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

38 (B) ~~((Underinsured motorist coverage to the extent required under~~
39 ~~RCW 48.22.030; and~~

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

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

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

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

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

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

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

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

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

37 (8) Insurers that exclude coverage under subsection (6) of this
38 section have no duty to defend or indemnify any claim expressly
39 excluded under subsection (6) of this section. Nothing in this
40 section shall be deemed to invalidate or limit an exclusion contained

1 in a policy, including any policy in use or approved for use in
2 Washington state before July 24, 2015, that excludes coverage for
3 vehicles used to carry persons or property for a charge or available
4 for hire by the public.

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

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

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

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

27 (11) In an accident or claims coverage investigation, a
28 commercial transportation services provider or its insurer must
29 cooperate with a private passenger automobile insurance policy
30 insurer and other insurers that are involved in the claims coverage
31 investigation to facilitate the exchange of information, including
32 the provision of (a) dates and times at which an accident occurred
33 that involved a participating driver and (b) within ten business days
34 after receiving a request, a copy of the provider's electronic record
35 showing the precise times that the participating driver logged on and
36 off the provider's digital network or software application on the day
37 the accident or other loss occurred. The commercial transportation
38 services provider or its insurer must retain all data,
39 communications, or documents related to insurance coverage or
40 accident details for a period of not less than the applicable

1 statutes of limitation, plus two years from the date of an accident
2 to which those records pertain.

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

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

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

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

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

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

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

34 **Sec. 33.** RCW 81.68.015 and 2009 c 557 s 1 are each amended to
35 read as follows:

36 (1) This chapter does not apply to corporations or persons, their
37 lessees, trustees, receivers, or trustees appointed by any court
38 whatsoever insofar as they own, control, operate, or manage taxicabs,

1 hotel buses, school buses, or any other carrier that does not come
2 within the term "auto transportation company" as defined in RCW
3 81.68.010.

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

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

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

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

34 (6) This chapter does not apply to transportation network
35 companies, transportation network company drivers, or transportation
36 network company vehicles under chapter 46.--- RCW (the new chapter
37 created in section 35 of this act).

1 NEW SECTION. **Sec. 34.** RCW 48.177.010 is recodified as a section
2 in chapter 46.--- RCW (the new chapter created in section 35 of this
3 act).

4 NEW SECTION. **Sec. 35.** Sections 11 through 31 of this act
5 constitute a new chapter in Title 46 RCW.

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