
HOUSE BILL 2076

State of Washington

67th Legislature

2022 Regular Session

By Representatives Berry, Simmons, Kloba, Bergquist, Pollet, Kirby, Bronoske, Fitzgibbon, Ryu, and Macri

Read first time 01/21/22. Referred to Committee on Labor & Workplace Standards.

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 50A.10.010, 48.177.010, and 81.68.015; adding new sections to chapter
5 49.46 RCW; adding a new section to chapter 51.16 RCW; adding a new
6 section to chapter 51.04 RCW; adding a new chapter to Title 46 RCW;
7 and recodifying RCW 48.177.010.

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

9 **PART I**

10 **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 enroute 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) For the purposes of this section, a dispatched trip
17 includes:

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

20 (ii) A trip canceled by a passenger or the transportation network
21 company unless the transportation network company refunds the
22 passenger cancellation fee due to driver conduct;

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

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

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

30 (5)(a) A transportation network company shall pay to its drivers
31 all tips and gratuities. Tips paid to a driver are in addition to,
32 and may not count towards, the driver's minimum compensation under
33 this section.

34 (b) Incentives may count towards the minimum compensation
35 requirements only for the particular trip in which the incentives are
36 earned.

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

39 (d) A transportation network company may only deduct compensation
40 when the driver expressly authorizes the deduction in writing and

1 does so in advance for a lawful purpose. Any authorization by a
2 driver must be voluntary and knowing. Neither the transportation
3 network company nor any person acting in the interest of the
4 transportation network company may derive any financial profit or
5 benefit from any of the deductions under this section. For the
6 purposes of this section, reasonable interest charged by the
7 transportation network company or any person acting in the interest
8 of a transportation network company, for a loan or credit extended to
9 the driver, is not considered to be of financial benefit to the
10 transportation network company or person acting in the interest of a
11 transportation network company.

12 (6) A transportation network company may not impose vehicle age
13 limits in any product classes that are more restrictive than limits
14 provided by state or local law.

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

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

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

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

29 (b) A transportation network company shall provide the notice of
30 rights required by this section in an electronic format that is
31 readily accessible to the driver. The notice of rights shall be made
32 available to the driver via smartphone application or online web
33 portal, in English and any language that the transportation network
34 company knows or has reason to know is the primary language of the
35 driver.

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

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

- 1 (b) The total mileage driven during passenger platform time;
- 2 (c) The total mileage driven during passenger pick-up time;
- 3 (d) Passenger fare;
- 4 (e) Rate or rates of pay, including but not limited to the rate
- 5 per minute, rate per mile, percentage of passenger fare, and any
- 6 applicable price multiplier or variable pricing policy in effect for
- 7 the trip;
- 8 (f) Tip compensation;
- 9 (g) Gross payment;
- 10 (h) Net payment after deductions, fees, tolls, surcharges, lease
- 11 fees, or other charges;
- 12 (i) Itemized deductions or fees, including any toll, surcharge,
- 13 commission, lease fees, and other charges; and
- 14 (j) Pursuant to rules issued by the department, other information
- 15 that is material and necessary to effectuate the terms of this
- 16 section.
- 17 (9) A transportation network company shall make driver per-trip
- 18 receipts available in a downloadable format, such as a comma-
- 19 separated values file, via smartphone application or online web
- 20 portal for a period of three years from the date the transportation
- 21 network company provided the receipt to the driver.
- 22 (10) On a weekly basis, the transportation network company shall
- 23 provide written notice to the driver that contains the following
- 24 information for trips, or a portion of a trip, that is covered by
- 25 this section and which occurred in the prior week:
- 26 (a) The driver's total passenger platform time;
- 27 (b) Total mileage driven by the driver during passenger platform
- 28 time;
- 29 (c) Total amount of passenger fares;
- 30 (d) The driver's total tip compensation;
- 31 (e) The driver's gross compensation, itemized by: (i) Rate per
- 32 minute; (ii) rate per mile; and (iii) any other method used to
- 33 calculate pay including, but not limited to, base pay, percentage of
- 34 passenger fare, or any applicable price multiplier or variable
- 35 pricing policy in effect for the trip;
- 36 (f) The driver's net payment after deductions, fees, tolls,
- 37 surcharges, lease fees, or other charges;
- 38 (g) Itemized deductions or fees, including all tolls, surcharges,
- 39 commissions, lease fees, and other charges, from the driver's
- 40 payment; and

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

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

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

8 (b) The passenger pick-up and passenger drop-off locations for
9 the trip. In describing the passenger pick-up location and passenger
10 drop-off location, the transportation network company shall describe
11 the location by indicating the specific block (e.g. "the 300 block of
12 Pine Street") in which the passenger pick-up and passenger drop-off
13 occurred. A transportation network company is authorized to indicate
14 the location with greater specificity, such as with a street address
15 or intersection, at its discretion, provided the location is
16 sufficiently anonymized to protect driver and passenger safety and
17 privacy;

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

19 (d) The driver's first name;

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

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

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

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

35 (b) Beginning September 30, 2022, and on each following September
36 30th, the department shall calculate an adjusted per trip remittance
37 by adjusting the current amount by the rate of inflation. The
38 adjusted amounts must be calculated to the nearest cent using the
39 consumer price index for urban wage earners and clerical workers,
40 CPI-W, or a successor index, for the 12 months prior to each

1 September 1st as calculated by the United States department of labor.
2 Each adjusted amount calculated under this subsection takes effect on
3 the following January 1st.

4 (13) Transportation network companies shall provide an
5 opportunity for drivers to make voluntary per-trip earnings deduction
6 contributions to the driver resource center, provided that 100 or
7 more drivers working for transportation network companies covered
8 under this section have authorized such a deduction to the driver
9 resource center, and subject to the following:

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

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

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

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

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

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

34 (14)(a) If the transportation network company does not collect
35 and remit the surcharges required under subsection (12) of this
36 section of every fare and, when applicable, under subsection (13) of
37 this section, the department shall notify the department of
38 licensing.

39 (b) Each transportation network company shall submit to the fund,
40 with its remittance, a report detailing the number of trips in the

1 previous month and the total amount of the surcharge charged to
2 customers. The first payment and accounting is due on the 30th day of
3 the quarter following the imposition of the surcharge. Failure to
4 remit payments by the deadlines is deemed a delinquency and the
5 transportation network company is subject to penalties and interest
6 as follows:

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

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

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

24 (15)(a) The state expressly intends to displace competition with
25 regulation allowing a transportation network company and its drivers
26 collectively to enter agreements with the driver resource center. The
27 state policy is to promote the rights of drivers and transportation
28 network companies and provide fair processes related to driver
29 account activation. The state intends that any agreement under this
30 section is immune from all federal and state antitrust laws. A
31 transportation network company may, at its own volition, enter into
32 an agreement with the driver resource center regarding the driver
33 account deactivation process. Any agreement must be approved by the
34 department. The department may approve an agreement only if the
35 agreement contains the following:

36 (i) The agreement must provide due process for drivers who face
37 account deactivation. Due process must include the following
38 protections:

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

1 (B) An agreed-upon just cause standard for upholding
2 deactivations;

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

8 (D) A good faith, substantive informal resolution process that is
9 committed to efficient resolution of deactivation conflicts within 30
10 days of the transportation network company being notified of the
11 conflict;

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

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

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

24 (b) Any agreement under this section must be submitted to the
25 department for approval. The department shall review the agreement to
26 ensure that its content is consistent with this subsection and the
27 public policy goals set forth in this subsection. The department
28 shall consider in its review both qualitative and quantitative
29 effects of the agreement, how the agreement comports with the state
30 policies set forth in this section, and any available business data
31 and economic studies. In conducting a review, the record shall not be
32 limited to the submissions of the parties nor to the terms of the
33 proposed agreement. The department shall have the right to gather and
34 consider any necessary evidence, including by conducting public
35 hearings and requesting additional information from the parties. The
36 department may approve or reject a proposed agreement, and may
37 require the parties to submit a revised proposal on all or particular
38 parts of the proposed agreement. If the department rejects all or
39 part of an agreement, it shall set forth its reasoning in writing and
40 shall suggest ways the parties may remedy the failures. Absent good

1 cause, the department shall issue a written determination regarding
2 its approval, rejection, or any suggestions in the event of rejection
3 of all or part of the agreement, within 30 days of submission of the
4 agreement.

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

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

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

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

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

16 (4) The department may make expenditures from the fund for the
17 following purposes:

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

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

26 **PART II**

27 **PAID SICK LEAVE**

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

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

33 (a) An employee shall accrue at least one hour of paid sick leave
34 for every forty hours worked as an employee. An employer may provide
35 paid sick leave in advance of accrual provided that such front-
36 loading meets or exceeds the requirements of this section for
37 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 earnings" means a driver's earnings from, or
4 facilitated by, the transportation network company, during the 365
5 days immediately prior to the day that paid sick time is used,
6 divided by the total hours of passenger platform time worked by the
7 driver on that transportation network company's driver platform
8 during that period.

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

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

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

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

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

26 (f) A driver may carry over up to 40 hours of unused paid sick
27 leave to the next calendar year. If a driver carries over unused paid
28 sick leave to the following year, accrual of paid sick leave in the
29 subsequent year must be in addition to the hours accrued in the
30 previous year and carried over.

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

35 (h) A driver is entitled to use paid sick leave during a
36 deactivation or other status that prevents the driver from performing
37 network services on the transportation network company's platform,
38 unless the driver's status is due to a verified allegation of sexual
39 assault perpetrated 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 or the driver's contract with a transportation
4 network company is terminated, any unused earned paid sick leave
5 accrued up to that point with that transportation network company is
6 no longer valid or recognized.

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

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

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

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

29 (n) A transportation network company shall provide each driver
30 with: (i) Written notification of the current rate of average hourly
31 compensation while a passenger is in the vehicle during the most
32 recent calendar month for use of paid sick leave; (ii) an updated
33 amount of accrued paid sick leave since the last notification; (iii)
34 reduced paid sick leave since the last notification; (iv) any unused
35 paid sick leave available for use; and (v) any amount that the
36 transportation network company may subtract from the driver's
37 compensation for paid sick leave. The transportation network company
38 shall provide this information to the driver no less than monthly.
39 The transportation network company may choose a reasonable system for
40 providing this notification, including but not limited to: A pay

1 stub; a weekly summary of compensation information; or an online
2 system where drivers can access their own paid sick leave
3 information. A transportation network company is not required to
4 provide this information to a driver if the driver has not worked any
5 days since the last notification.

6 **PART III**
7 **INDUSTRIAL INSURANCE**

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

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

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

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

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

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

26 (5) Sole proprietors or partners.

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

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

32 (8) (a) Except as otherwise provided in (b) of this subsection,
33 any bona fide officer of a corporation voluntarily elected or
34 voluntarily appointed in accordance with the articles of
35 incorporation or bylaws of the corporation, who at all times during
36 the period involved is also a bona fide director, and who is also a
37 shareholder of the corporation. Only such officers who exercise
38 substantial control in the daily management of the corporation and

1 whose primary responsibilities do not include the performance of
2 manual labor are included within this subsection.

3 (b) Alternatively, a corporation that is not a "public company"
4 as defined in RCW 23B.01.400 may exempt eight or fewer bona fide
5 officers, who are voluntarily elected or voluntarily appointed in
6 accordance with the articles of incorporation or bylaws of the
7 corporation and who exercise substantial control in the daily
8 management of the corporation, from coverage under this title without
9 regard to the officers' performance of manual labor if the exempted
10 officer is a shareholder of the corporation, or may exempt any number
11 of officers if all the exempted officers are related by blood within
12 the third degree or marriage. If a corporation that is not a "public
13 company" elects to be covered under (~~subsection (8)~~) (a) of this
14 subsection, the corporation's election must be made on a form
15 prescribed by the department and under such reasonable rules as the
16 department may adopt.

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

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

27 (9) Services rendered by a musician or entertainer under a
28 contract with a purchaser of the services, for a specific engagement
29 or engagements when such musician or entertainer performs no other
30 duties for the purchaser and is not regularly and continuously
31 employed by the purchaser. A purchaser does not include the leader of
32 a group or recognized entity who employs other than on a casual basis
33 musicians or entertainers.

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

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

4 (12) Services performed by a booth renter. However, a person
5 exempted under this subsection may elect coverage under RCW
6 51.32.030.

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

8 (a) Management of the company is vested in its members, and the
9 members for whom exemption is sought would qualify for exemption
10 under subsection (5) of this section were the company a sole
11 proprietorship or partnership; or

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

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

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

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

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

38 (2) For the purposes of this title only, "employer" includes a
39 transportation network company as defined in section 1 of this act

1 while the driver is engaged in passenger platform time and dispatch
2 platform time, as those terms are defined in section 1 of this act.

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

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

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

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

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

33 (2) For the purposes of premium rates for transportation network
34 companies, the department shall compute premium rates based on hours
35 worked by the drivers of transportation network companies while
36 engaged in passenger platform time and dispatch platform time.
37 However, for rates in 2023, the rate assessed must be equivalent to
38 taxicab companies. For each subsequent year, the department shall

1 calculate an adjusted premium rate by adjusting the current amount by
2 the rate of inflation. The adjusted amounts must be calculated using
3 the consumer price index for urban wage earners and clerical workers,
4 CPI-W, or a successor index, for the 12 months prior to each January
5 1st as calculated by the United States department of labor.

6 (3) The department may adopt rules to carry out the purposes of
7 this section, including rules providing for alternative reporting
8 requirements, alternative reporting periods, and payment due dates
9 for coverage under this section.

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

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

1 payroll by the department, and also subject to appropriate periodic
2 adjustments made by the department based on actual payroll: AND
3 PROVIDED FURTHER, That a temporary help company which provides
4 workers on a temporary basis to its customers shall be considered the
5 employer for purposes of reporting and paying premiums and
6 assessments under this title according to the appropriate rate
7 classifications as determined by the department: PROVIDED, That the
8 employer shall be liable for paying premiums and assessments, should
9 the temporary help company fail to pay the premiums and assessments
10 under this title.

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

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

19 (2) A transportation network company's compliance with this
20 chapter satisfies any obligation under any local law requiring
21 compensation or benefits for workplace injuries or occupational
22 disease.

23 **PART IV**
24 **PAID FAMILY MEDICAL LEAVE**

25 **Sec. 10.** RCW 50A.10.010 and 2020 c 125 s 2 are each amended to
26 read as follows:

27 (1) (a) For benefits payable beginning January 1, 2020, any self-
28 employed person, including a sole proprietor, independent contractor,
29 partner, or joint venturer, may elect coverage under this title for
30 an initial period of not less than three years and subsequent periods
31 of not less than one year immediately following a period of coverage.
32 Those electing coverage under this section must elect coverage for
33 both family leave and medical leave and are responsible for payment
34 of one hundred percent of all premiums assessed to an employee under
35 RCW 50A.10.030. The self-employed person must file a notice of
36 election in writing with the department, in a manner as required by
37 the department in rule. The self-employed person is eligible for

1 family and medical leave benefits after working eight hundred twenty
2 hours in the state during the qualifying period following the date of
3 filing the notice.

4 (b) (i) For benefits payable beginning January 1, 2024, any
5 driver, as defined in section 1 of this act, may elect coverage under
6 this section. The driver will be considered a self-employed person
7 for the purposes of this chapter. A transportation network company,
8 as defined in section 1 of this act, shall pay the self-employed
9 premium on behalf of a driver who has elected coverage under this
10 section and who has notified the transportation network company in
11 writing of that election. In addition to all rights and obligations
12 applicable to a self-employed person under this chapter, the
13 following additional provisions apply for drivers electing coverage:

14 (A) Prior to the driver filing a notice of election in writing
15 with the department, the driver must send written notice of the
16 intent to elect coverage to the transportation network company or
17 companies for which the driver provides network services;

18 (B) When the driver files a notice of withdrawal of coverage in
19 writing, as provided in this section, the driver must also send
20 written notice to the transportation network company or companies for
21 which the driver provides network services;

22 (C) The department shall divide the driver's gross earnings
23 during the qualifying period by the state minimum wage, and consider
24 that number to be the equivalent of hours worked during the
25 qualifying period for the purposes of determining eligibility; and

26 (D) The department may not cancel a driver's elective coverage
27 based on a transportation network company's failure to pay premiums,
28 without first providing notice to the driver and an opportunity for
29 the driver to respond to the notification of pending cancellation.

30 (ii) The department may adopt rules to implement this subsection
31 (1)(b) and must establish procedures for addressing a transportation
32 network company's failure to pay premiums.

33 (2) A self-employed person who has elected coverage may withdraw
34 from coverage within thirty days after the end of each period of
35 coverage, or at such other times as the commissioner may adopt by
36 rule, by filing a notice of withdrawal in writing with the
37 commissioner, such withdrawal to take effect not sooner than thirty
38 days after filing the notice with the commissioner.

39 (3) ~~(The)~~ Except as provided in subsection (1)(b) of this
40 section, the department may cancel elective coverage if the self-

1 employed person fails to make required payments or file reports. The
2 department may collect due and unpaid premiums and may levy an
3 additional premium for the remainder of the period of coverage. The
4 cancellation shall be effective no later than thirty days from the
5 date of the notice in writing advising the self-employed person of
6 the cancellation.

7 (4) Those electing coverage are considered employers or employees
8 where the context so dictates.

9 (5) For the purposes of this section, "independent contractor"
10 means an individual excluded from employment under RCW
11 50A.05.010(8)(b)(iii) and (iv).

12 (6) In developing and implementing the requirements of this
13 section, the department shall adopt government efficiencies to
14 improve administration and reduce costs. These efficiencies may
15 include, but are not limited to, requiring that payments be made in a
16 manner and at intervals unique to the elective coverage program.

17 (7) The department shall adopt rules for determining the hours
18 worked and the wages of individuals who elect coverage under this
19 section and rules for enforcement of this section.

20 PART V

21 STATEWIDE REGULATORY REQUIREMENTS

22 NEW SECTION. **Sec. 11.** The purpose of this chapter is to:
23 Provide statewide uniform regulation for transportation network
24 companies within the state of Washington, encourage technological
25 innovation, and preserve and enhance access to important
26 transportation options for residents and visitors to Washington
27 state.

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

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

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

35 NEW SECTION. **Sec. 13.** (1) A transportation network company or
36 transportation network company driver is not a common carrier, motor

1 carrier, or any other carrier as defined in RCW 81.80.010, and does
2 not provide for hire transportation service, commuter ride sharing,
3 taxicab, auto transportation company services, or metropolitan public
4 transportation services pursuant to chapter 35.58, 46.72, 46.73,
5 81.68, or 81.72 RCW.

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

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

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

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

23 NEW SECTION. **Sec. 15.** Any transportation network company
24 operating in Washington state must maintain an agent for service of
25 process in the state.

26 NEW SECTION. **Sec. 16.** (1) Before a rider enters a
27 transportation network company vehicle, the transportation network
28 company must provide, on behalf of the transportation network company
29 driver, either the fare for the prearranged ride or the option to
30 receive an estimated fare for the prearranged ride.

31 (2) During the first 30 days of a state of emergency, as declared
32 by the governor or the president of the United States, a
33 transportation network company may not charge a fare for
34 transportation network company services provided to any
35 transportation network company rider that exceeds two and one-half
36 times the fare that would otherwise be applicable for the prearranged
37 ride.

1 NEW SECTION. **Sec. 17.** A transportation network company's
2 digital network or website must display a photograph of the
3 transportation network company driver and the license plate number of
4 the transportation network company vehicle.

5 NEW SECTION. **Sec. 18.** (1) A transportation network company must
6 implement a zero tolerance policy regarding a transportation network
7 company driver's activities while accessing the transportation
8 network company's digital network. The zero tolerance policy must
9 address the use of drugs or alcohol while a transportation network
10 company driver is providing prearranged rides or is logged in to the
11 transportation network company's digital network but is not providing
12 prearranged rides.

13 (2) A transportation network company must provide notice of this
14 policy on its website, as well as procedures to report a complaint
15 about a transportation network company driver with whom a
16 transportation network company rider was matched and whom the rider
17 reasonably suspects was under the influence of drugs or alcohol
18 during the course of the trip.

19 (3) A transportation network company must maintain records
20 relevant to the enforcement of the policy under this section for a
21 period of at least two years from the date that a transportation
22 network company rider complaint is received by the transportation
23 network company.

24 NEW SECTION. **Sec. 19.** (1) Before allowing an individual to
25 accept trip requests as a transportation network company driver
26 through a transportation network company's digital network and
27 annually thereafter:

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

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

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

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

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

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

11 (a) Has had more than three moving violations in the prior three-
12 year period, or one of the following major violations in the prior
13 three-year period:

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

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

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

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

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

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

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

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

25 (c) Has been convicted of any sex offense as defined in RCW
26 9.94A.030 or is a match in the United States department of justice
27 national sex offender public website;

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

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

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

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

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

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

4 (a) Is not more than 12 years old as determined by the model year
5 of the vehicle;

6 (b) Meets the emissions requirements for motor vehicles; and

7 (c) Has received a safety inspection by a third party in the last
8 year that includes the following components:

9 (i) Foot brakes;

10 (ii) Parking brakes;

11 (iii) Steering mechanism;

12 (iv) Windshield;

13 (v) Rear window and other glass;

14 (vi) Windshield wipers;

15 (vii) Headlights;

16 (viii) Taillights;

17 (ix) Brake lights;

18 (x) Front seat adjustment mechanism;

19 (xi) Doors;

20 (xii) Turn signal lights;

21 (xiii) Horn;

22 (xiv) Speedometer;

23 (xv) Bumpers;

24 (xvi) Muffler and exhaust system;

25 (xvii) Tires, including tread depth;

26 (xviii) Interior and exterior mirrors; and

27 (xix) Safety belts.

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

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

36 NEW SECTION. **Sec. 21.** A transportation network company driver
37 may not:

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

4 (2) Provide transportation network company services for more than
5 14 consecutive hours in a 24-hour period; or

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

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

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

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

21 (4) A transportation network company may not impose additional
22 charges for providing services to persons with disabilities because
23 of those disabilities.

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

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

28 (2) Individual records of transportation network company drivers
29 at least until the end of the calendar year marking the three-year
30 anniversary of the date on which a transportation network company
31 driver's relationship with the transportation network company has
32 ended.

33 NEW SECTION. **Sec. 24.** (1) For the sole purpose of verifying
34 that a transportation network company is in compliance with the
35 requirements of this chapter and no more than twice per year, the
36 department may review a sample of records that the transportation
37 network company is required to maintain under this chapter. The

1 sample of records must be chosen randomly by the department in a
2 manner agreeable to both parties. Any record sample furnished to the
3 department may exclude information that would reasonably identify
4 specific transportation network company drivers or riders.

5 (2) Records provided to the department for inspection under this
6 chapter are exempt from disclosure under chapter 42.56 RCW and are
7 confidential and not subject to disclosure to a third party by the
8 department without prior written consent of the transportation
9 network company.

10 NEW SECTION. **Sec. 25.** (1) If the department determines, after
11 notice and a hearing, that a transportation network company is in
12 violation of this chapter or any rule adopted under this chapter or
13 in violation of section 1 of this act or any rule adopted pursuant to
14 section 1 of this act, the department may issue a monetary penalty or
15 suspend or revoke a transportation network company permit, or both,
16 in accordance with this chapter. In determining the amount of any
17 monetary penalty, the department must consider the size of the
18 transportation network company based on the number of intrastate
19 trips provided by the transportation network company in the previous
20 calendar year, the gravity of the violation, the degree to which the
21 transportation network company exercised good faith in attempting to
22 achieve compliance or to remedy noncompliance, and any previous
23 violations by the transportation network company cited by the
24 department. Any deceptive, manipulative, or coordinated practice used
25 by a transportation network company to evade authorities, including
26 through the use of a digital network or the system supporting the
27 digital network, is a violation of this chapter.

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

31 NEW SECTION. **Sec. 26.** The uniform regulation of business and
32 professions act, chapter 18.235 RCW, governs unlicensed practice, the
33 issuance and denial of licenses, and the discipline of licensees
34 under this chapter.

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

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

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

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

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

14 NEW SECTION. **Sec. 29.** (1) A transportation network company
15 driver, transportation network company, any of the company's agents,
16 or any person acting on behalf of a transportation network company
17 may not take adverse action against any transportation network
18 company rider or riders if:

19 (a) The rider or former rider has informed any other person or
20 made a good faith complaint, or the driver or transportation network
21 company believes a rider has informed any other person or made a
22 complaint, including to the driver, the transportation network
23 company, the department, the attorney general, or any other person,
24 that the driver or transportation network company engaged in conduct
25 that the rider reasonably believes violates this chapter;

26 (b) The rider or former rider has sought information about the
27 rider's rights under this chapter or informed others about their
28 rights under this chapter; or

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

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

34 NEW SECTION. **Sec. 30.** (1) The legislature finds that the
35 practices covered under this chapter are matters vitally affecting
36 the public interest for the purpose of applying chapter 19.86 RCW. A
37 violation of this chapter is not reasonable in relation to the
38 development and preservation of business and is an unfair or

1 deceptive act in trade or commerce and an unfair method of
2 competition for the purpose of applying chapter 19.86 RCW.

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

7 (3) The transportation network company must maintain data
8 regarding transportation network company rider complaints. The
9 department and attorney general must have access to the data pursuant
10 to lawful process.

11 **Sec. 31.** RCW 48.177.010 and 2015 c 236 s 2 are each amended to
12 read as follows:

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

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

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

37 (A) Liability coverage in an amount no less than fifty thousand
38 dollars per person for bodily injury, one hundred thousand dollars

1 per accident for bodily injury of all persons, and thirty thousand
2 dollars for damage to property; and

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

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

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

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

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

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

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

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

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

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

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

39 (iii) A combination of both the commercial transportation
40 services provider and the driver.

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

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

14 (5) A primary automobile insurance policy required under
15 subsection (1) or (2) of this section may be placed with an insurer
16 licensed under this title to provide insurance in the state of
17 Washington or as an eligible surplus line insurance policy as
18 described in RCW 48.15.040.

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

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

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

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

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

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

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

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

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

1 the accident or other loss occurred. The commercial transportation
2 services provider or its insurer must retain all data,
3 communications, or documents related to insurance coverage or
4 accident details for a period of not less than the applicable
5 statutes of limitation, plus two years from the date of an accident
6 to which those records pertain.

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

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

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

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

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

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

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

1 **Sec. 32.** RCW 81.68.015 and 2009 c 557 s 1 are each amended to
2 read as follows:

3 (1) This chapter does not apply to corporations or persons, their
4 lessees, trustees, receivers, or trustees appointed by any court
5 whatsoever insofar as they own, control, operate, or manage taxicabs,
6 hotel buses, school buses, or any other carrier that does not come
7 within the term "auto transportation company" as defined in RCW
8 81.68.010.

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

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

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

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

39 (6) This chapter does not apply to transportation network
40 companies, transportation network company drivers, or transportation

1 network company vehicles under chapter 46.--- RCW (the new chapter
2 created in section 34 of this act).

3 NEW SECTION. **Sec. 33.** RCW 48.177.010 is recodified as a section
4 in chapter 46.---

 RCW (the new chapter created in section 34 of this
5 act).

6 NEW SECTION. **Sec. 34.** Sections 11 through 30 of this act
7 constitute a new chapter in Title 46 RCW.

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