

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2076

Chapter 281, Laws of 2022
(partial veto)

67th Legislature
2022 Regular Session

TRANSPORTATION NETWORK COMPANIES

EFFECTIVE DATE: June 9, 2022—Except for sections 8 through 13, which take effect January 1, 2023; and sections 17 and 28, which take effect March 1, 2023.

Passed by the House March 7, 2022
Yeas 56 Nays 42

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate March 4, 2022
Yeas 40 Nays 8

DENNY HECK

President of the Senate

Approved March 31, 2022 4:48 PM with
the exception of section 16, which is
vetoed.

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2076** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

April 1, 2022

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2076

AS AMENDED BY THE SENATE

Passed Legislature - 2022 Regular Session

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 and 48.177.010; adding new sections to chapter 49.46 RCW; adding a
5 new section to chapter 51.16 RCW; adding a new section to chapter
6 51.04 RCW; adding a new chapter to Title 46 RCW; creating a new
7 section; recodifying RCW 48.177.010; and providing effective dates.

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

9 **PART I**

10 **COMPENSATION, 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 and sections 2 through 5 and 7 of this act unless the context
15 clearly requires otherwise.

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

1 (i) Blocking access to the transportation network company driver
2 platform;

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

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

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

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

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

16 (e) "Director" means the director of the department of labor and
17 industries.

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

20 (g) "Dispatch platform time" means the time a driver spends
21 traveling from a dispatch location to a passenger pick-up location.
22 Dispatch platform time ends when a passenger cancels a trip or the
23 driver begins the trip through the driver platform. A driver cannot
24 simultaneously be engaged in dispatch platform time and passenger
25 platform time for the same transportation network company. For shared
26 rides, dispatch platform time means the time a driver spends
27 traveling from the first dispatch location to the first passenger
28 pick-up location.

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

32 (i) "Driver" has the same meaning as "commercial transportation
33 services provider driver" in RCW 48.177.005. Except as otherwise
34 specified in this act, for purposes of this title and Titles 48, 50A,
35 50B, and 51 RCW, and any orders, regulations, administrative
36 policies, or opinions of any state or local agency, board, division,
37 or commission, pursuant to those titles, a driver is not an employee
38 or agent of a transportation network company if the following factors
39 are met:

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

5 (ii) The transportation network company may not terminate the
6 contract of the driver for not accepting a specific transportation
7 service request;

8 (iii) The transportation network company does not contractually
9 prohibit the driver from performing services through other
10 transportation network companies except while performing services
11 through the transportation network company's online-enabled
12 application or platform during dispatch platform time and passenger
13 platform time; and

14 (iv) The transportation network company does not contractually
15 prohibit the driver from working in any other lawful occupation or
16 business.

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

23 (j) "Driver platform" means the driver-facing application
24 dispatch system software or any online-enabled application service,
25 website, or system, used by a driver, or which enables services to be
26 delivered to a driver that enables the prearrangement of passenger
27 trips for compensation.

28 (k) "Driver resource center" or "center" means a nonprofit
29 organization that provides services to drivers. The nonprofit
30 organization must be registered with the Washington secretary of
31 state, have organizational bylaws giving drivers right to membership
32 in the organization, and have demonstrated experience: (i) Providing
33 services to gig economy drivers in Washington state, including
34 representing drivers in deactivation appeals proceedings; and (ii)
35 providing culturally competent driver representation services,
36 outreach, and education. The administration and formation of the
37 driver resource center may not be funded, excessively influenced, or
38 controlled by a transportation network company.

39 (l) "Driver resource center fund" or "fund" means the dedicated
40 fund created in section 2 of this act, the sole purpose of which is

1 to administer funds collected from transportation network companies
2 to provide services, support, and benefits to drivers.

3 (m) "Network services" means services related to the
4 transportation of passengers through the driver platform that are
5 provided by a driver while logged in to the driver platform,
6 including services provided during available platform time, dispatch
7 platform time, and passenger platform time.

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

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

12 (p) "Passenger pick-up location" means the location of the
13 driver's vehicle at the time the driver starts the trip in the driver
14 platform.

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

18 (r) "Passenger platform time" means the period of time when the
19 driver is transporting one or more passengers on a trip. For shared
20 rides, passenger platform time means the period of time commencing
21 when the first passenger enters the driver's vehicle until the time
22 when the last passenger exits the driver's vehicle.

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

25 (t) "Shared ride" means a dispatched trip which, prior to its
26 commencement, a passenger requests through the transportation network
27 company's digital network to share the dispatched trip with one or
28 more passengers and each passenger is charged a fare that is
29 calculated, in whole or in part, based on the passenger's request to
30 share all or a part of the dispatched trip with one or more
31 passengers, regardless of whether the passenger actually shares all
32 or a part of the dispatched trip.

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

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

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

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

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

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

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

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

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

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

26 (A) \$0.34 per passenger platform minute and \$1.17 per passenger
27 platform mile; or

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

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

31 (A) For all passenger platform time spent within the city on that
32 trip and for all passenger platform miles driven in the city on that
33 trip the compensation standard under (a)(i) of this subsection
34 applies.

35 (B) For all passenger platform time spent outside the city on
36 that trip and for all passenger platform miles driven outside the
37 city on that trip the compensation standard under (a)(ii) of this
38 subsection applies.

39 (b) Beginning September 30, 2022, and on each following September
40 30th, the department shall calculate adjusted per mile and per minute

1 amounts and per trip minimums by increasing the current year's per
2 mile and per minute amounts and per trip minimums by the rate of
3 increase of the state minimum wage, calculated to the nearest cent.
4 The adjusted amount calculated under this section takes effect on the
5 following January 1st.

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

10 (5)(a) For the purposes of this section, a dispatched trip
11 includes:

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

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

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

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

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

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

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

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

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

1 (iii) Neither the transportation network company nor any person
2 acting in the interest of the transportation network company may
3 derive any financial profit or benefit from any of the deductions
4 under this section. For the purposes of this section:

5 (A) Reasonable interest charged by the transportation network
6 company or any person acting in the interest of a transportation
7 network company, for a loan or credit extended to the driver, is not
8 considered to be of financial benefit to the transportation network
9 company or person acting in the interest of a transportation network
10 company; and

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

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

19 (i) The right to the applicable per minute rate and per mile rate
20 or per trip rate 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 per trip rate, or a
27 transportation network company's retaliation against a driver or
28 other person for engaging 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 the five most common foreign languages spoken
34 in this state.

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

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

(b) The total mileage driven during passenger platform time;
(c) Rate or rates of pay, including but not limited to the rate per minute, rate per mile, percentage of passenger fare, and any applicable price multiplier or variable pricing policy in effect for the trip;

(d) Tip compensation;

(e) Gross payment;

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

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

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

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

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

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

(c) The driver's total tip compensation;

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

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

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

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

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

2 (b) The passenger pick-up and passenger drop-off locations for
3 the trip. In describing the passenger pick-up location and passenger
4 drop-off location, the transportation network company shall describe
5 the location by indicating the specific block (e.g. "the 300 block of
6 Pine Street") in which the passenger pick-up and passenger drop-off
7 occurred. A transportation network company is authorized to indicate
8 the location with greater specificity, such as with a street address
9 or intersection, at its discretion;

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

11 (d) The driver's first name;

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

13 (f) The total passenger-paid tips.

14 (12)(a) Beginning July 1, 2024, transportation network companies
15 shall collect and remit a \$0.15 per trip fee to the driver resource
16 center fund, created in section 2 of this act, for the driver
17 resource center to support the driver community. The remittance under
18 this subsection is a pass-through of passenger fares and shall not be
19 considered a transportation network company's funding of the driver
20 resource center. Passenger fares paid include each individual trip
21 portion on shared trips. The remittances to the fund must be made on
22 a quarterly basis.

23 (b) Beginning September 30, 2024, and on each following September
24 30th, the department shall calculate an adjusted per trip fee by
25 adjusting the current amount by the rate of inflation. The adjusted
26 amounts must be calculated to the nearest cent using the consumer
27 price index for urban wage earners and clerical workers, CPI-W, or a
28 successor index, for the 12 months prior to each September 1st as
29 calculated by the United States department of labor. Each adjusted
30 amount calculated under this subsection takes effect on the following
31 January 1st.

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

39 (a) A driver must expressly authorize the deduction in writing.
40 Written authorization must include, at a minimum, sufficient

1 information to identify the driver and the driver's desired per trip
2 deduction amount. These deductions may reduce the driver's per trip
3 earnings below the minimums set forth in this section.

4 (b) The transportation network company may require written
5 authorization to be submitted in electronic format from the driver
6 resource center.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (C) Within 30 calendar days of a request, furnishing to the
37 driver resource center an explanation and information the
38 transportation network company may have relied upon in making the
39 deactivation decision, excluding confidential, proprietary, or
40 otherwise privileged communications, provided that personal

1 identifying information and confidential information is redacted to
2 address reasonable privacy and confidentiality concerns;

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

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

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

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

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

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

37 (B) For a transportation network company who begins operating a
38 digital network in the state of Washington after an organization has
39 been selected as the driver resource center under section 2 of this
40 act, the driver resource center and transportation network company

1 must make good faith efforts to reach an agreement within 120 days of
2 the transportation network company beginning operation of a digital
3 network in the state of Washington.

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

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

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

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

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

1 not contain either parties' confidential, proprietary, or privileged
2 information, or any individual's personal identifying information
3 from the parties. The department may approve or reject a proposed
4 agreement, and may require the parties to submit a revised proposal
5 on all or particular parts of the proposed agreement. If the
6 department rejects an agreement, it shall set forth its reasoning in
7 writing and shall suggest ways the parties may remedy the failures.
8 Absent good cause, the department shall issue a written determination
9 regarding its approval or rejection within 60 days of submission of
10 the agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (4) Upon payment by a transportation network company, and
11 acceptance by a driver, of all compensation and interest assessed by
12 the department in a citation and notice of assessment issued to the
13 transportation network company, the fact of such payment by the
14 transportation network company, and of such acceptance by the driver,
15 shall: (a) Constitute a full and complete satisfaction by the
16 transportation network company of all specific requirements of
17 section 1 of this act addressed in the citation and notice of
18 assessment; and (b) bar the driver from initiating or pursuing any
19 court action or other judicial or administrative proceeding,
20 including arbitration, based on the specific requirements addressed
21 in the citation and notice of assessment. The citation and notice of
22 assessment shall include a notification and summary of the specific
23 requirements of section 1 of this act.

24 (5) The applicable statute of limitations for civil actions is
25 tolled during the department's investigation of a driver's complaint
26 against a transportation network company. For the purposes of this
27 subsection, the department's investigation begins on the date the
28 driver files the complaint with the department and ends when: (a) The
29 complaint is finally determined through a final and binding citation
30 and notice of assessment or determination of compliance; or (b) the
31 department notifies the transportation network company and the driver
32 in writing that the complaint has been otherwise resolved or that the
33 driver has elected to terminate the department's administrative
34 action under subsection (12) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 **PART II**
38 **PAID SICK LEAVE**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (c) A spouse;

1 (d) A registered domestic partner;

2 (e) A grandparent;

3 (f) A grandchild; or

4 (g) A sibling.

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

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

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

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

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

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

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

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

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

38 (C) A spouse;

39 (D) A registered domestic partner;

40 (E) A grandparent;

1 (F) A grandchild; or

2 (G) A sibling.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 **PART III**

1 **INDUSTRIAL INSURANCE**

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

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

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

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

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

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

20 (5) Sole proprietors or partners.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

workers on a temporary basis to its customers shall be considered the employer for purposes of reporting and paying premiums and assessments under this title according to the appropriate rate classifications as determined by the department: PROVIDED, That the employer shall be liable for paying premiums and assessments, should the temporary help company fail to pay the premiums and assessments under this title.

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

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

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

PART IV

STATEWIDE REGULATORY REQUIREMENTS

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

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

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

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

(3) "Director" means the director of the department of licensing.

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

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

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

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

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

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

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

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

***Sec. 16 was vetoed. See message at end of chapter.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (a) Has had more than three moving violations in the prior three-
24 year period, or one of the following major violations in the prior
25 three-year period:

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

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

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

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

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

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

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

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

37 (c) Has been convicted of any sex offense as defined in RCW
38 9.94A.030 or is a match in the United States department of justice
39 national sex offender public website;

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

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

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

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

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

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

15 (c) For purposes of subsection (2)(a) of this section multiple
16 moving violations shall be treated by the transportation network
17 company as a single moving violation if the driver can demonstrate,
18 through the account deactivation appeals process outlined in section
19 1(15) of this act, that the violations arose from a single incident.

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

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

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

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

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

33 NEW SECTION. **Sec. 25.** (1) A transportation network company must
34 adopt a policy of nondiscrimination on the basis of race, color,
35 national origin, citizenship or immigration status, families with
36 children, creed, religious belief or affiliation, sex, marital
37 status, the presence of any sensory, mental, or physical disability,
38 age, honorably discharged veteran or military status, sexual

1 orientation, gender expression or gender identity, the use of a
2 trained dog guide or service animal by a person with a disability, or
3 any other protected class under RCW 49.60.010, with respect to
4 passengers and potential passengers and notify drivers of such
5 policy.

6 (2) A driver must comply with all applicable laws regarding
7 nondiscrimination against transportation network company riders or
8 potential riders on the basis of race, color, national origin,
9 citizenship or immigration status, families with children, creed,
10 religious belief or affiliation, sex, marital status, the presence of
11 any sensory, mental, or physical disability, age, honorably
12 discharged veteran or military status, sexual orientation, gender
13 expression or gender identity, or any other protected class under RCW
14 49.60.010.

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

17 (4) A transportation network company may not impose additional
18 charges for providing services to persons with disabilities because
19 of those disabilities.

20 NEW SECTION. **Sec. 26.** Any safety product, feature, process,
21 policy, standard, or other effort undertaken by a transportation
22 network company, or the provision of equipment by a transportation
23 network company, to further public safety is not an indicia of an
24 employment or agency relationship with a driver.

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

27 (1) Individual trip records, except receipts pursuant to section
28 1(9) of this act, for at least three years from the end of the
29 calendar year in which each trip was provided; and

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

34 NEW SECTION. **Sec. 28.** (1) For the sole purpose of verifying
35 that a transportation network company is in compliance with the
36 requirements of this chapter and no more than twice per year, the
37 department may review a sample of records that the transportation

1 network company is required to maintain under this chapter. The
2 sample of records must be chosen randomly by the department in a
3 manner agreeable to both parties. Any record sample furnished to the
4 department may exclude information that would reasonably identify
5 specific drivers or passengers.

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

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

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

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

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

1 (2)(a) Except as provided in (b) and (c) of this subsection, a
2 local ordinance or regulation, in a city with a population of more
3 than 600,000 or a county with a population of more than 2,000,000,
4 existing on or before January 1, 2022, that imposes a tax, fee, or
5 other charge on a transportation network company or driver, remains
6 in effect at the rate that exists on or before January 1, 2022. The
7 city or county may continue to collect that tax, fee, or other
8 charge, but may not increase the amount of that tax, fee, or other
9 charge, and may not impose any higher or new taxes, fees, or other
10 charges. This subsection (2)(a) applies retroactively and preempts
11 any increase in the amount of an existing tax, fee, or other charge,
12 or the imposition of any higher or new taxes, fees, or other charges,
13 which occurs between January 2, 2022, and the effective date of this
14 section.

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

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

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

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

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

38 (3)(a) A local ordinance or regulation in a city with a
39 population of more than six hundred thousand or a county with a
40 population of more than two million, and that existed on or before

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

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

28 (4) Nothing in this chapter shall be interpreted to prevent an
29 airport operator, as defined in RCW 14.08.015, from requiring a
30 transportation network company to enter into a contract or agreement,
31 consistent with the provisions of RCW 14.08.120, governing
32 requirements of the transportation network company on airport
33 property including but not limited to the fees and operational
34 requirements. An airport operator may not impose any requirements
35 through a contract authorized by this section that relate to
36 requirements covered by sections 1, 7, 11, and 13 of this act and RCW
37 49.46.210(5), 51.08.070, 51.08.180, 51.12.020, and 51.16.060.

38 (5) Other than taxes, fees, or other charges imposed explicitly
39 or exclusively on a transportation network company or driver, this

1 section does not preempt any generally applicable taxes, fees, or
2 other charges, such as:

- 3 (a) Business tax;
- 4 (b) Sales and use tax;
- 5 (c) Excise tax; or
- 6 (d) Property tax.

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

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

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

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

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

1 (B) Underinsured motorist coverage to the extent required under
2 RCW 48.22.030; and

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

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

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

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

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

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

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

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

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

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

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

4 (iii) A combination of both the commercial transportation
5 services provider and the driver.

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

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

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

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

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

36 (b) Personal injury protection coverage;

37 (c) Underinsured motorist coverage;

38 (d) Medical payments coverage;

39 (e) Comprehensive physical damage coverage; and

40 (f) Collision physical damage coverage.

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

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

16 (9) An exclusion exercised by an insurer in subsection (6) of
17 this section applies to any coverage selected or rejected by a named
18 insured under RCW 48.22.030 and 48.22.085. The purchase of a rider or
19 endorsement by a driver under subsection (2)(a) of this section does
20 not require a separate coverage rejection under RCW 48.22.030 or
21 48.22.085.

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

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

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

38 (11) In an accident or claims coverage investigation, a
39 commercial transportation services provider or its insurer must
40 cooperate with a private passenger automobile insurance policy

insurer and other insurers that are involved in the claims coverage investigation to facilitate the exchange of information, including the provision of (a) dates and times at which an accident occurred that involved a participating driver and (b) within ten business days after receiving a request, a copy of the provider's electronic record showing the precise times that the participating driver logged on and off the provider's digital network or software application on the day the accident or other loss occurred. The commercial transportation services provider or its insurer must retain all data, communications, or documents related to insurance coverage or accident details for a period of not less than the applicable statutes of limitation, plus two years from the date of an accident to which those records pertain.

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

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

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

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

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

IF THE VEHICLE THAT YOU PLAN TO USE TO PROVIDE COMMERCIAL TRANSPORTATION SERVICES FOR OUR COMPANY HAS A LIEN AGAINST IT, YOU

1 MUST NOTIFY THE LIENHOLDER THAT YOU WILL BE USING THE VEHICLE FOR
2 COMMERCIAL TRANSPORTATION SERVICES THAT MAY VIOLATE THE TERMS OF YOUR
3 CONTRACT WITH THE LIENHOLDER.

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

6 NEW SECTION. **Sec. 34.** (1) The commissioner for the employment
7 security department shall commence a work group of stakeholders,
8 comprised of equal representation of industry and labor, to study the
9 appropriate application of Titles 50, 50A, and 50B RCW on
10 transportation network companies and drivers in this state.

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

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

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

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

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

Passed by the House March 7, 2022.

Passed by the Senate March 4, 2022.

Approved by the Governor March 31, 2022, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State April 1, 2022.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 16,
Engrossed Substitute House Bill No. 2076 entitled:

"AN ACT Relating to rights and obligations of transportation
network company drivers and transportation network companies."

Engrossed Substitute House Bill 2076 focuses on matters specific to
the driver of a Transportation Network Company and the nature of the

employment relationship with the company. Section 16 exempts transportation network companies and drivers from the "common carrier" statutes. However, more work needs to be done in this sector focused on consumer protections, and Section 16 adds ambiguity without adequate additional consumer protections in place. It is critical that we respond to this concern in future legislation before putting this exemption into law. I am confident this is a matter that the legislature will address.

For these reasons I have vetoed Section 16 of Engrossed Substitute House Bill No. 2076.

With the exception of Section 16, Engrossed Substitute House Bill No. 2076 is approved."

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