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**SUBSTITUTE HOUSE BILL 2076**

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**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)

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

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

**PART I**

**WAGES, DEACTIVATION, AND DRIVER RESOURCE CENTER**

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

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

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

(b) "Dispatch" means the dispatch of a driver to provide transportation to a passenger in a transportation network company endorsed vehicle through the use of a transportation network company's application dispatch system.

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

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

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

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

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

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

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

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

(g) "Driver resource center" or "center" means a nonprofit organization selected by the governor to provide services to drivers. To be selected by the governor, the nonprofit organization must be registered with the Washington secretary of state, have organizational bylaws giving drivers right to membership in the organization, and have demonstrated experience: (i) Providing dispute resolution and deactivation representation services to gig economy drivers in Washington state, including representing drivers in deactivation appeals proceedings; and (ii) providing culturally competent driver representation services, outreach, and education. The administration and formation of the driver resource center may not be funded, excessively influenced, or controlled by a transportation network company. The governor or governor's designee shall select a qualified nonprofit organization to be the driver resource center within 60 days of the effective date of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The total amount of passenger platform time;

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

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

(d) Passenger fare;

(e) 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;

(f) Tip compensation;

(g) Gross payment;

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

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

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

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

(11) 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) Total amount of passenger fares;

(d) The driver's total tip compensation;

(e) The driver's gross compensation, 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;

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

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

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

(12) 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:

(a) The date and time of the trip;

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

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

(d) The driver's first name;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**PART II**

**PAID SICK LEAVE**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) A spouse;

(d) A registered domestic partner;

(e) A grandparent;

(f) A grandchild; or

(g) A sibling.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**PART III**

**INDUSTRIAL INSURANCE**

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

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

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

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

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

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

(5) Sole proprietors or partners.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

((~~Every~~)) Except as provided in section 7 of this act, every employer not qualifying as a self-insurer, shall insure with the state and shall, on or before the last day of January, April, July and October of each year thereafter, furnish the department with a true and accurate payroll for the period in which workers were employed by it during the preceding calendar quarter, the total amount paid to such workers during such preceding calendar quarter, and a segregation of employment in the different classes established pursuant to this title, and shall pay its premium thereon to the appropriate fund. Premiums for a calendar quarter, whether reported or not, shall become due and delinquent on the day immediately following the last day of the month following the calendar quarter. The sufficiency of such statement shall be subject to the approval of the director: PROVIDED, That the director may in his or her discretion and for the effective administration of this title require an employer in individual instances to furnish a supplementary report containing the name of each individual worker, his or her hours worked, his or her rate of pay and the class or classes in which such work was performed: PROVIDED FURTHER, That in the event an employer shall furnish the department with four consecutive quarterly reports wherein each such quarterly report indicates that no premium is due the department may close the account: PROVIDED FURTHER, That the department may promulgate rules and regulations in accordance with chapter 34.05 RCW to establish other reporting periods and payment due dates in lieu of reports and payments following each calendar quarter, and may also establish terms and conditions for payment of premiums and assessments based on estimated payrolls, with such payments being subject to approval as to sufficiency of the estimated payroll by the department, and also subject to appropriate periodic adjustments made by the department based on actual payroll: AND 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.**  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 local law requiring compensation or benefits for workplace injuries or occupational disease.

**PART IV**

**PAID FAMILY MEDICAL LEAVE**

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

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

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

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

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

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

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

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

**PART V**

**STATEWIDE REGULATORY REQUIREMENTS**

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

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

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

NEW SECTION. **Sec.**  (1) A transportation network company or transportation network company 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 transportation network company driver is not required to register a transportation network company vehicle used to provide prearranged rides as a commercial vehicle or for hire vehicle.

NEW SECTION. **Sec.**  (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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Reckless driving pursuant to RCW 46.61.500; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Foot brakes;

(ii) Parking brakes;

(iii) Steering mechanism;

(iv) Windshield;

(v) Rear window and other glass;

(vi) Windshield wipers;

(vii) Headlights;

(viii) Taillights;

(ix) Brake lights;

(x) Front seat adjustment mechanism;

(xi) Doors;

(xii) Turn signal lights;

(xiii) Horn;

(xiv) Speedometer;

(xv) Bumpers;

(xvi) Muffler and exhaust system;

(xvii) Tires, including tread depth;

(xviii) Interior and exterior mirrors; and

(xix) Safety belts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2)(a) Except as provided in (b) of this subsection, a local ordinance or regulation existing on or before the effective date of this section that imposes a tax, fee, or surcharge on a transportation network company or driver remains in effect at the rate that exists on or before the effective date of this section. The county, city, town, or other municipal corporation may continue to collect that tax, fee, or surcharge, but may not increase the amount of that tax, fee, or surcharge, and may not impose any higher or new taxes, fees, or surcharges.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Personal injury protection coverage;

(c) Underinsured motorist coverage;

(d) Medical payments coverage;

(e) Comprehensive physical damage coverage; and

(f) Collision physical damage coverage.

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

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

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

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

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

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

(11) In an accident or claims coverage investigation, a commercial transportation services provider or its insurer must 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 MUST NOTIFY THE LIENHOLDER THAT YOU WILL BE USING THE VEHICLE FOR COMMERCIAL TRANSPORTATION SERVICES THAT MAY VIOLATE THE TERMS OF YOUR CONTRACT WITH THE LIENHOLDER.

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

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

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

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

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

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

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

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

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

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

**--- END ---**