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**HOUSE BILL 2109**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Representatives Farrell and Stanford

AN ACT Relating to portable, prorated, universal benefits for workers of the gig economy; and adding a new chapter to Title 49 RCW.

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

NEW SECTION. **Sec.**  As used in this chapter:

(1) "Contracting agent" means a business, organization, corporation, limited liability company, partnership, sole proprietor, or any other entity:

(a) That facilitates the provision of services by workers to consumers seeking the services that both facilitate provision of services and make payments to workers; and

(b) Where the provision of services by workers is taxed under 1099 federal tax status.

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

(3) "Qualified benefit provider" means a nonprofit benefit provider that is eligible to provide benefits to workers of contracting agents under section 4 of this act.

(4) "Worker" means a person who provides services to consumers through a contracting agent.

NEW SECTION. **Sec.**  (1) Contracting agents that have facilitated the provision of services by at least fifty individual workers in a consecutive twelve-month period shall contribute funds to qualified benefit providers to provide benefits to the workers of the contracting agents. The requirement to contribute funds under this chapter only applies when the services are provided to consumers located in the state.

(2)(a) The contribution amount must be the lesser of twenty-five percent of the total fee collected from the consumer for each transaction of services provided or six dollars for every hour that the worker provided services to the consumer. If determined per hour, then the determination must be prorated per minute.

(b) The contribution amount required under this section may be added to the invoice or billing submitted to the consumer for the services.

(3) Contributions must be made to the qualified benefit provider on no less than a monthly basis and no later than fifteen days after the end of the month in which the services were provided.

(4) Contributions must indicate the assigned amount per worker per transaction, according to the following:

(a) If a single worker provided services for a transaction, the entire contribution is assigned to that worker; or

(b) If multiple workers provided services for a transaction, the contribution is assigned proportionately to those workers.

NEW SECTION. **Sec.**  (1) Based on the contributions received under section 2 of this act, qualified benefit providers must ensure that benefits are provided to workers as set forth in this section.

(2) Qualified benefit providers shall provide industrial insurance under Title 51 RCW to those workers entitled to benefits based on contributions made under section 2 of this act.

(3) In addition to industrial insurance, qualified benefit providers shall provide some or all of the benefits set forth in this subsection. Qualified benefit providers shall solicit input from workers on their benefits, and shall allow workers to choose from available benefits or allocate the contributions among the following benefits:

(a) Health insurance, including but not limited to subsidies to purchase health insurance on the exchange;

(b) Paid time off;

(c) Retirement benefits; and

(d) Other benefits determined by the qualified benefit providers, on behalf of the workers.

(4) Qualified benefit providers may use up to five percent of contribution funds received for administration of benefits.

NEW SECTION. **Sec.**  The department shall adopt rules for organizations to become qualified benefit providers. At a minimum, the rules governing qualified benefit providers must require that the following criteria are met:

(1) The organization must be a nonprofit organization, operating under 26 U.S.C. Sec. 501(c)(3) federal tax status;

(2) At least one-half of the organization's board of directors must be comprised of workers performing work for customers of contracting agents or representatives of bona fide independent organizations of such workers;

(3) The organization must be independent from all business entities, organizations, corporations, or individuals that would pursue any financial interest in conflict with that of the workers;

(4) All action of the organization regarding providing benefits must be for the sole purpose of maximizing benefits to the covered workers;

(5) The board of directors of the organization must hold a fiduciary duty to the workers with respect to provision of the benefits; and

(6) The organization must demonstrate adequate viability and financial sufficiency as determined by the department. At a minimum, the organization must have:

(a) Cash reserves in a sufficient amount, as determined by the department;

(b) Liability coverage for an amount determined by the department;

(c) Access to bonding; and

(d) Other demonstrated competencies as determined by the department.

NEW SECTION. **Sec.**  A worker entitled to benefits under this chapter must select a qualified benefit provider and must be given the option to change his or her selected qualified benefit provider once per year. Workers must be provided information regarding available qualified benefit providers and must be able to easily select their chosen qualified benefit provider.

NEW SECTION. **Sec.**  The department shall establish rules to implement and administer this chapter, including rules for:

(1) Monitoring compliance of contracting agents;

(2) Monitoring qualified benefit providers, including the ability to remove providers that are out of compliance with the criteria established under this chapter;

(3) Establishing a fee on contracting agents to fund the department's compliance efforts;

(4) Administering industrial insurance coverage for workers under this chapter; and

(5) Providing procedures for workers to select qualified benefit providers, to change their selections annually, and to receive notices of the right to select different qualified benefit providers.

NEW SECTION. **Sec.**  In addition to any remedies provided by the department to a worker for a contracting agent's noncompliance, a worker may bring a private cause of action against a contracting agent for the contracting agent's failure to comply with the contribution requirements under section 2 of this act.

NEW SECTION. **Sec.**  The requirements on contracting agents and the benefits provided to workers under this chapter may not be considered in determinations of a worker's employment status or the contracting agent's employment relationship to the worker under chapters 51.08, 49.12, 49.46, and 49.48 RCW or under Title 50 RCW.

NEW SECTION. **Sec.**  Sections 1 through 8 of this act constitute a new chapter in Title 49 RCW.

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