

WSR 24-24-045
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed November 26, 2024, 8:13 a.m., effective January 1, 2025]

Effective Date of Rule: January 1, 2025.

Purpose: Since January 1, 2023, transportation network companies (TNCs) have reported and paid premiums for hours their drivers worked during dispatch and passenger platform time in Classification 1401 with taxis. The department of labor and industries (L&I) has researched and evaluated the impact of TNCs on Classification 1401 and determined TNCs represent at least 95 percent of the classification. This rule-making adoption creates a new risk classification and premium rate for TNCs.

L&I is also adopting rules to implement SHB 2382, chapter 184, Laws of 2024, which provides for TNC driver death benefits during non-covered times in certain circumstances. The rule adoption creates a rule describing the new benefit and creates an administrative classification to manage death benefit claims meeting the new law's criteria. Qualifying death benefit claims will be included in the annual rate calculation of the new TNC classification, but will not be included in any one TNC's experience calculation.

Citation of Rules Affected by this Order: New WAC 296-17-945, 296-17-946, 296-17A-1408, and 296-17A-1409; and amending WAC 296-17A-1401.

Statutory Authority for Adoption: RCW 51.16.035 and 51.32.053.

Adopted under notice filed as WSR 24-19-078 on September 17, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 26, 2024.

Joel Sacks
Director

OTS-5841.1

NEW SECTION

WAC 296-17-945 Classification 1408.

Passenger Transportation Network Companies Rate

Class	Accident Fund	Stay at Work Fund	Medical Aid Fund	Supplemental Pension Fund
1408	0.04668	0.0061	0.2587	0.1758

OTS-5821.1

NEW SECTION

WAC 296-17-946 Passenger transportation network driver death benefit claims. In addition to the limited coverage provided in RCW 51.16.250, death benefits are provided in accordance with RCW 51.32.053 when a transportation network company driver's death results from an injury occurring while the driver is:

- Logged onto the transportation network company's digital network as available for work;
- Physically inside the transportation network company driver's vehicle or within the immediate proximity of the transportation network company driver's vehicle; and
- Not otherwise covered by this title.

The TNC definitions in RCW 49.46.300 apply.

For the purposes of this section, the applicable statute of limitations begins upon the driver's death.

The cost of the death benefits must be included in the consideration of rate changes for the risk class. The costs of death benefits are not included in the calculation of any individual transportation network company's experience modification factor.

OTS-5822.2

AMENDATORY SECTION (Amending WSR 23-05-075, filed 2/14/23, effective 4/1/23)

WAC 296-17A-1401 Classification 1401.

1401-01 Passenger transportation companies - Flat rate by driver

This classification is for reporting drivers on a flat rate of 480 hours per driver each quarter.

Applies to:

Businesses providing passenger transportation to others, including:

- Businesses that employ taxi or for-hire drivers as defined under either chapter 81.72 or 46.72 RCW; and WAC 296-17-35205, which describes special reporting.
- Taxi or for-hire drivers as defined under either chapter 81.72 or 46.72 RCW, and who own their own vehicles or who lease vehicles from others; and elect optional coverage as provided by RCW 51.32.030 and as defined in WAC 296-17-31007.

Work activities include, but are not limited to:

- Operation of the vehicle;
- Loading/unloading passengers' luggage;
- Assisting passengers in and out of the vehicle; and
- Incidental "cabulance" services which may be offered in conjunction with the taxi service.

Exclusions:

• Transportation network companies as defined by Title 49 RCW are classified in 1408;

- Businesses that operate ambulance services are classified in 1405;
- Businesses that operate cabulance and paratransit services exclusively are classified in 1404;
- Dispatchers with no other job duties may be classified separately in 4904; and
- Work performing maintenance/repair of the vehicle is classified separately in 3411.

Special note: If all conditions are met for the general reporting rules about standard exception employees, businesses that furnish only a dispatch service for taxicab drivers who own their own vehicles, or who lease vehicles from others, may be classified separately in 4904. Employees of a taxicab dispatch service who perform maintenance/repair of vehicles are classified separately in 3411.

1401-02 Passenger transportation companies - Flat rate by vehicle

This classification is for reporting vehicles on a flat rate of 960 hours per vehicle each quarter.

Applies to:

- Businesses providing passenger transportation to others, including:
- Businesses that employ taxi or for-hire drivers as defined under either chapter 81.72 or 46.72 RCW; and WAC 296-17-35205, which describes special reporting.
 - Taxi or for-hire drivers as defined under either chapter 81.72 or 46.72 RCW, and who own their own vehicles or who lease vehicles from others; and elect optional coverage as provided by RCW 51.32.030 and as defined in WAC 296-17-31007.

Work activities include, but are not limited to:

- Operation of the vehicle;
- Loading/unloading passengers' luggage;
- Assisting passengers in and out of the vehicle; and
- Incidental "cabulance" services which may be offered in conjunction with the taxi service.

Exclusions:

• Transportation network companies as defined by Title 49 RCW are classified in 1408;

- Businesses that operate ambulance services are classified in 1405;
- Businesses that operate cabulance and paratransit services exclusively are classified in 1404;
- Dispatchers with no other job duties may be classified separately in 4904; and
- Work performing maintenance/repair of the vehicle is classified separately in 3411.

Special note: If all conditions are met for the general reporting rules about standard exception employees, businesses that furnish only a dispatch service for taxicab drivers who own their own vehicles, or who lease vehicles from others, may be classified separately in 4904. Employees of a taxicab dispatch service who perform maintenance/repair of vehicles are classified separately in 3411.

1401-03 Passenger transportation companies - Actual hours

This classification is for reporting employees on an actual hours worked basis.

Applies to:

Businesses providing passenger transportation to others, including:

~~((• Transportation network companies as defined in Title 49 RCW. Special reporting and coverage requirements in WAC 296-17-35205;))~~

- Businesses that employ taxi or for-hire drivers as defined under either chapter 81.72 or 46.72 RCW; and WAC 296-17-35205, which describes special reporting.

- Taxi or for-hire drivers as defined under either chapter 81.72 or 46.72 RCW, and who own their own vehicles or who lease vehicles from others; and elect optional coverage as provided by RCW 51.32.030 and as defined in WAC 296-17-31007.

Work activities include, but are not limited to:

- Operation of the vehicle;
- Loading/unloading passengers' luggage;
- Assisting passengers in and out of the vehicle; and
- Incidental "cabulance" services which may be offered in conjunction with the taxi service.

Exclusions:

• Transportation network companies as defined by Title 49 RCW are classified in 1408;

- Businesses that operate ambulance services are classified in 1405;

- Businesses that operate cabulance and paratransit services exclusively are classified in 1404;

- Dispatchers with no other job duties may be classified separately in 4904; and

- Work performing maintenance/repair of the vehicle is classified separately in 3411.

Special note: If all conditions are met for the general reporting rules about standard exception employees, businesses that furnish only a dispatch service for taxicab drivers who own their own vehicles, or who lease vehicles from others, may be classified separately in 4904. Employees of a taxicab dispatch service who perform maintenance/repair of vehicles are classified separately in 3411.

1401-04 Pedicab and horse-drawn carriage companies

Applies to businesses engaged in furnishing passenger transportation to others using pedicab or horse-drawn carriage.

Work activities include, but are not limited to:

- Operation of the vehicle;
- Assisting passengers in and out of the vehicle; and
- The care and feeding of animals while vehicle is available for transporting passengers.

Businesses in this classification report the actual hours their employees work and must maintain verifiable records.

OTS-5823.1

NEW SECTION**WAC 296-17A-1408 Passenger transportation network companies.**

This classification is for reporting TNC drivers for all dispatch platform time and passenger platform time.

Applies to:

Businesses providing passenger transportation to others, including:

- Transportation network companies as defined in Title 49 RCW. Special reporting and coverage requirements in WAC 296-17-35205.

Work activities include, but are not limited to:

- Operation of the vehicle;
- Loading/unloading passengers' luggage;
- Assisting passengers in and out of the vehicle.

Exclusions:

- Businesses that employ taxi or for-hire drivers as defined under either chapter 81.72 or 46.72 RCW; and WAC 296-17-35205, which describes special reporting. Classified in 1401;
- Taxi or for-hire drivers as defined under either chapter 81.72 or 46.72 RCW, and who own their own vehicles or who lease vehicles from others; and elect optional coverage as provided by RCW 51.32.030 and as defined in WAC 296-17-31007. Classified in 1401;
- Businesses that operate ambulance services are classified in 1405;
- Businesses that operate cabulance and paratransit services exclusively are classified in 1404;
- Dispatchers with no other job duties may be classified separately in 4904; and
- Businesses engaged in maintenance/repair of vehicles report maintenance/repair worker hours are classified separately in 3411.

Special note: If all conditions are met for the general reporting rules about standard exception employees, classification 4904 may be assigned.

OTS-5824.1

NEW SECTION

WAC 296-17A-1409 Passenger transportation network company driver death benefit claims. This classification is only to be used to assign claims for death benefits for drivers who meet the criteria set forth in chapter 51.32 RCW passed by 2024 legislature session. No hours will be reported or premium paid for this classification and no standalone classification rate will be developed.