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Walsh
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HOUSE CS FOR CS FOR SENATE BILL NO. 35(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR BJORKMAN

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to transportation network companies and delivery network companies;**
2 **relating to uninsured and underinsured motorists coverage for transportation of persons**
3 **for hire; relating to occupational accident insurance; and relating to compensation of**
4 **transportation network company drivers and delivery network company couriers."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 21.96 is amended by adding a new section to read:

7 **Sec. 21.96.017. Transportation and delivery network company**
8 **occupational accident insurance.** An insurer authorized to write commercial casualty
9 insurance in this state may issue group or blanket occupational accident insurance
10 required under AS 28.23.065. In this section, "group or blanket occupational accident
11 insurance" does not include health care insurance as defined under AS 21.12.050 or
12 workers' compensation insurance.

13 * **Sec. 2.** AS 21.96.018(a) is amended to read:

14 (a) Insurers that write automobile insurance in the state may, notwithstanding

1 any requirement under AS 28.20, exclude any and all coverage afforded under the
2 policy issued to an owner or operator of a personal vehicle for any loss or injury that
3 occurs while a driver is logged onto the digital network of a transportation network
4 company, [OR] while a driver provides a prearranged ride, **or while a courier**
5 **provides delivery services**. The right to exclude all coverage may apply to any
6 coverage included in an automobile insurance policy, including

- 7 (1) liability coverage for bodily injury and property damage;
- 8 (2) uninsured and underinsured motorist coverage;
- 9 (3) medical payments coverage;
- 10 (4) comprehensive physical damage coverage; and
- 11 (5) collision physical damage coverage.

12 * **Sec. 3.** AS 21.96.018(b) is amended to read:

13 (b) Nothing in this section

14 (1) implies or requires that a personal automobile insurance policy
15 provide coverage while **a** [THE DRIVER]

16 (A) **driver** is logged onto the digital network of a
17 transportation network company;

18 (B) **driver** is engaged in a prearranged ride; [OR]

19 (C) **driver** otherwise uses a personal vehicle to transport
20 passengers for compensation; **or**

21 **(D) courier is providing delivery services;**

22 (2) may be construed to require an insurer to use specific policy
23 language or to refer to this section in order to exclude any and all coverage for any
24 loss or injury that occurs while a [DRIVER]

25 (A) **driver** is logged onto the digital network of a
26 transportation network company; [OR]

27 (B) **driver** provides a prearranged ride; or

28 **(C) courier provides delivery services; or**

29 (3) precludes an insurer from providing coverage for the personal
30 vehicle of a transportation network company driver **or delivery network company**
31 **courier** if the insurer chooses to provide coverage by contract or endorsement.

1 * **Sec. 4.** AS 21.96.018(f) is amended to read:

2 (f) In this section, "courier," "delivery network company," "delivery
3 "network company courier," "delivery services," "digital network," "driver,"
4 "personal vehicle," "prearranged ride," "transportation network company," and
5 "transportation network company driver" have the meanings given in AS 28.23.180.

6 * **Sec. 5.** AS 21.96.020 is amended by adding a new subsection to read:

7 (j) Notwithstanding (e) of this section, an insured may not waive the uninsured
8 and underinsured motorists coverage required under AS 28.20.440(m) or
9 AS 28.23.050.

10 * **Sec. 6.** AS 23.30.230(a) is amended to read:

11 (a) The following persons are not covered by this chapter:

- 12 (1) a part-time babysitter;
- 13 (2) a cleaning person;
- 14 (3) harvest help and similar part-time or transient help;
- 15 (4) a person employed as a sports official on a contractual basis and
16 who officiates only at sports events in which the players are not compensated; in this
17 paragraph, "sports official" includes an umpire, referee, judge, scorekeeper,
18 timekeeper, organizer, or other person who is a neutral participant in a sports event;
- 19 (5) a person employed as an entertainer on a contractual basis;
- 20 (6) a commercial fisherman, as defined in AS 16.05.940;
- 21 (7) an individual who drives a taxicab and whose compensation and
22 written contractual arrangement is as described in AS 23.10.055(a)(13), unless the
23 hours worked by the individual or the areas in which the individual may work are
24 restricted except to comply with local ordinances;
- 25 (8) a participant in the Alaska temporary assistance program
26 (AS 47.27) who is engaged in work activities required under AS 47.27.035 other than
27 subsidized or unsubsidized work or on-the-job training;
- 28 (9) a person employed as a player or coach by a professional hockey
29 team if the person is covered under a health care insurance plan provided by the
30 professional hockey team, the coverage is applicable to both work-related and
31 nonwork-related injuries, and the coverage provides medical and related benefits as

1 required under this chapter, except that coverage may not be limited to two years from
2 the date of injury as described under AS 23.30.095(a); in this paragraph, "health care
3 insurance" has the meaning given in AS 21.12.050;

4 (10) a person working as a qualified real estate licensee who performs
5 services under a written contract that provides that the person will not be treated as an
6 employee for federal income tax or workers' compensation purposes; in this
7 paragraph, "qualified real estate licensee" means a person who is required to be
8 licensed under AS 08.88.161 and whose payment for services is directly related to
9 sales or other output rather than the number of hours worked;

10 (11) a transportation network company driver who provides a
11 prearranged ride or is otherwise logged onto the digital network of a transportation
12 network company as a driver; [AND]

13 (12) a person employed as an independent contractor; a person is an
14 independent contractor for the purposes of this section only if the person

15 (A) has an express contract to perform the services;

16 (B) is free from direction and control over the means and
17 manner of providing services, subject only to the right of the individual for
18 whom, or entity for which, the services are provided to specify the desired
19 results, completion schedule, or range of work hours, or to monitor the work
20 for compliance with contract plans and specifications, or federal, state, or
21 municipal law;

22 (C) incurs most of the expenses for tools, labor, and other
23 operational costs necessary to perform the services, except that materials and
24 equipment may be supplied;

25 (D) has an opportunity for profit and loss as a result of the
26 services performed for the other individual or entity;

27 (E) is free to hire and fire employees to help perform the
28 services for the contracted work;

29 (F) has all business, trade, or professional licenses required by
30 federal, state, or municipal authorities for a business or individual engaging in
31 the same type of services as the person;

1 (G) follows federal Internal Revenue Service requirements by

2 (i) obtaining an employer identification number, if
3 required;

4 (ii) filing business or self-employment tax returns for
5 the previous tax year to report profit or income earned for the same
6 type of services provided under the contract; or

7 (iii) intending to file business or self-employment tax
8 returns for the current tax year to report profit or income earned for the
9 same type of services provided under the contract if the person's
10 business was not operating in the previous tax year; and

11 (H) meets at least two of the following criteria:

12 (i) the person is responsible for the satisfactory
13 completion of services that the person has contracted to perform and is
14 subject to liability for a failure to complete the contracted work, or
15 maintains liability insurance or other insurance policies necessary to
16 protect the employees, financial interests, and customers of the person's
17 business;

18 (ii) the person maintains a business location or a
19 business mailing address separate from the location of the individual
20 for whom, or the entity for which, the services are performed;

21 (iii) the person provides contracted services for two or
22 more different customers within a 12-month period or engages in any
23 kind of business advertising, solicitation, or other marketing efforts
24 reasonably calculated to obtain new contracts to provide similar
25 services; **and**

26 **(13) a delivery network company courier who provides delivery**
27 **services or is otherwise logged onto the digital network of a delivery network**
28 **company under AS 28.23.080.**

29 * **Sec. 7.** AS 28.20.440 is amended by adding a new subsection to read:

30 (m) The motor vehicle liability policy of an operator of a vehicle used or
31 maintained for the transportation of persons for hire must contain the following

coverage while the operator is transporting persons for hire:

(1) primary automobile liability insurance that provides at least \$1,000,000 for death, bodily injury, and property damage;

(2) uninsured and underinsured motorists coverage, as required under AS 21.96.020 and this section, that provides at least \$500,000 for death, bodily injury, and property damage.

* Sec. 8. AS 28.20.445 is amended by adding a new subsection to read:

(j) Notwithstanding (e)(3) of this section, an insured may not reject the uninsured and underinsured motorists coverage required under AS 28.20.440(m) or AS 28.23.050.

* Sec. 9. AS 28.22.201 is amended by adding a new subsection to read:

(e) Notwithstanding (a)(3) of this section, an insured may not reject the uninsured and underinsured motorists coverage required under AS 28.20.440(m) or AS 28.23.050.

* Sec. 10. AS 28.23.050(a) is amended to read:

(a) A [TRANSPORTATION NETWORK COMPANY DRIVER, OR TRANSPORTATION NETWORK] company, on behalf of a [THE] driver or courier, shall maintain primary automobile insurance that

(1) recognizes that

(A) the driver is a transportation network company driver or otherwise uses a vehicle to transport passengers for compensation; or

(B) the courier is a delivery network company courier;

(2) for a transportation network company, [AND THAT] covers the driver while the driver is logged onto the digital network of a transportation network company or while the driver is engaged in a prearranged ride;

(3) for a delivery network company, covers the courier while the courier is providing delivery services or is available to receive an offer immediately following completion of delivery services but is not providing delivery services.

* Sec. 11. AS 28.23.050(b) is amended to read:

(b) The following automobile insurance requirements shall apply while a

1 participating [TRANSPORTATION NETWORK COMPANY] driver is logged onto
 2 the digital network of a transportation network company and is available to receive
 3 transportation requests but is not engaged in a prearranged ride, **and while a courier**
 4 **is logged onto the digital network of a delivery network company and is available**
 5 **to receive an offer immediately following completion of delivery services but is**
 6 **not providing delivery services:**

7 (1) primary automobile liability insurance in the amount of at least
 8 \$50,000 for death and bodily injury for each person, \$100,000 for death and bodily
 9 injury for each incident, and \$25,000 for property damage;

10 (2) uninsured or underinsured motor vehicle coverage as required
 11 under AS 21.96.020 and AS 28.20.440; **a transportation network company may not**
 12 **waive the coverage** [;

13 (3) THE COVERAGE REQUIREMENTS OF THIS SUBSECTION
 14 MAY BE SATISFIED BY

15 (A) AUTOMOBILE INSURANCE MAINTAINED BY THE
 16 TRANSPORTATION NETWORK COMPANY DRIVER;

17 (B) AUTOMOBILE INSURANCE MAINTAINED BY THE
 18 TRANSPORTATION NETWORK COMPANY; OR

19 (C) ANY COMBINATION OF (A) AND (B) OF THIS
 20 PARAGRAPH].

21 * **Sec. 12.** AS 28.23.050(c) is amended to read:

22 (c) The following automobile insurance requirements shall apply while a
 23 [TRANSPORTATION NETWORK COMPANY] driver is engaged in a prearranged
 24 ride **or a courier is providing delivery services:**

25 (1) primary automobile liability insurance that provides at least
 26 \$1,000,000 for death, bodily injury, and property damage;

27 (2) uninsured or underinsured motor vehicle coverage, as required
 28 under AS 21.96.020 and AS 28.20.440, **that provides at least \$500,000 for death,**
 29 **bodily injury, and property damage; a transportation network company may not**
 30 **waive the coverage** [;

31 (3) THE COVERAGE REQUIREMENTS OF THIS SUBSECTION

MAY BE SATISFIED BY

(A) AUTOMOBILE INSURANCE MAINTAINED BY THE TRANSPORTATION NETWORK COMPANY DRIVER;

(B) AUTOMOBILE INSURANCE MAINTAINED BY THE TRANSPORTATION NETWORK COMPANY; OR

(C) A COMBINATION OF (A) AND (B) OF THIS PARAGRAPH].

* Sec. 13. AS 28.23.050(e) is amended to read:

(e) Coverage under an automobile insurance policy maintained by the [TRANSPORTATION NETWORK] company may not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required first to deny a claim.

* Sec. 14. AS 28.23.050(h) is amended to read:

(h) A [TRANSPORTATION NETWORK COMPANY] driver **or courier** shall carry proof of coverage under (b) and (c) of this section, **as applicable**, with the driver **or courier** at all times during the driver's **or courier's** use of a vehicle in connection with a digital network of a [TRANSPORTATION NETWORK] company. In the event of an accident, a [TRANSPORTATION NETWORK COMPANY] driver **or courier** shall provide the insurance coverage information to the directly interested parties, automobile insurers, and investigating police officers upon request under AS 28.22.019. Upon that request, a [TRANSPORTATION NETWORK COMPANY] driver **or courier** shall also disclose to directly interested parties, automobile insurers, and investigating police officers whether the driver **or courier** was logged onto the digital network of a [TRANSPORTATION NETWORK] company, **[OR] on a prearranged ride, or providing delivery services** at the time of an accident.

* Sec. 15. AS 28.23.050(i) is amended to read:

(i) If the insurance carrier for the [TRANSPORTATION NETWORK] company makes a payment for a claim for physical damage to a personal vehicle that is subject to a lien, the insurance carrier shall pay the claim jointly to the owner of the personal vehicle and the primary lienholder or directly to the business repairing the personal vehicle.

1 * **Sec. 16.** AS 28.23.060 is amended to read:

2 **Sec. 28.23.060. Transportation and delivery network company automobile**
3 **insurance disclosures.** A [TRANSPORTATION NETWORK] company shall
4 disclose in writing to [TRANSPORTATION NETWORK COMPANY] drivers **and**
5 **couriers** the following before the drivers **or couriers** are allowed to accept a request
6 for a prearranged ride **or delivery services** on the digital network of the
7 [TRANSPORTATION NETWORK] company:

8 (1) the insurance coverage, including the types of coverage and the
9 limits for each coverage, that the [TRANSPORTATION NETWORK] company
10 provides while the [TRANSPORTATION NETWORK COMPANY] driver **or**
11 **courier** uses a personal vehicle in connection with a [TRANSPORTATION
12 NETWORK] company's digital network;

13 (2) that the automobile insurance policy of the [TRANSPORTATION
14 NETWORK COMPANY] driver **or courier** might not provide any coverage while the
15 driver is logged onto the digital network of a transportation network company and is
16 available to receive transportation requests, **the driver** [OR] is engaged in a
17 prearranged ride, **or the courier is providing delivery services**, depending on the
18 terms of the automobile insurance policy of the driver **or courier**; and

19 (3) that, if the personal vehicle the [TRANSPORTATION NETWORK
20 COMPANY] driver **or courier** uses to provide transportation network services **or**
21 **delivery services** has a lien against it, using the motor vehicle for transportation
22 network services **or delivery services** without physical damage coverage may violate
23 the terms of the contract with the lienholder.

24 * **Sec. 17.** AS 28.23 is amended by adding a new section to read:

25 **Sec. 28.23.065. Occupational accident insurance.** (a) A company shall
26 maintain group or blanket occupational accident insurance, issued by an insurer under
27 AS 21.96.017, to provide coverage required under (b) of this section for an injury
28 suffered by a driver or courier while the driver or courier is engaged in a prearranged
29 ride or providing delivery services.

30 (b) The occupational accident insurance policy required under this section
31 must provide at least a combined single limit of \$1,000,000 for each accident and

1 payment of benefits that include

2 (1) coverage for medical expenses incurred, up to at least \$1,000,000,
3 for up to 104 weeks following the injury;

4 (2) coverage for total disability and partial disability, with payments
5 made for up to 104 weeks following the injury that are equal to 66 percent of the
6 driver's or courier's average weekly earnings as of the date of injury but not more than
7 the maximum weekly compensation rate calculated under AS 23.30.175(a); however,
8 if the average weekly earnings of the driver or courier is less than the minimum
9 weekly compensation rate calculated under AS 23.30.175(a), the weekly
10 compensation must be equal to 100 percent of the driver's or courier's average weekly
11 earnings;

12 (3) accidental death insurance for the benefit of spouses, children, or
13 other dependents of a driver or courier for injuries suffered by a driver or courier that
14 result in death in an amount equal to 66 percent of the driver's or courier's average
15 weekly earnings as of the date of injury but not more than the maximum weekly
16 compensation rate calculated under AS 23.30.175(a); however, if the average weekly
17 earnings of the driver or courier is less than the minimum weekly compensation rate
18 calculated under AS 23.30.175(a), the weekly compensation must be equal to 100
19 percent of the driver's or courier's average weekly earnings multiplied by 104 weeks;
20 and

21 (4) when injuries suffered by a driver or courier result in death, an
22 amount to pay for reasonable burial expenses, not to exceed eight times the maximum
23 weekly compensation rate calculated under AS 23.30.175(a).

24 (c) A policy required under this section may provide that, regardless of the
25 number of policies involved, claims made, premiums shown on the policy, or
26 premiums paid, the limits for any coverage under the policy may not be added to the
27 limits for similar occupational accident insurance coverage provided by another
28 company to determine the limit of occupational accident insurance coverage available
29 arising from a single injury.

30 (d) A benefit provided to a driver or courier under an occupational accident
31 insurance policy required under this section must be treated as an amount payable

1 under medical payments coverage, workers' compensation law, or a disability benefit
2 for the purpose of determining the amount payable under uninsured and underinsured
3 motorists coverage provided under AS 28.20.440 and 28.20.445.

4 (e) If a claim is covered by more than one occupational accident insurance
5 policy maintained by more than one company, the insurer of the company against
6 whom a claim is filed is entitled to a contribution for the pro rata share of coverage
7 attributable to other companies.

8 (f) In this section, "average weekly earnings" means the total earnings of a
9 driver or courier received from all transportation network companies and delivery
10 network companies during the 28 days immediately preceding a covered incident,
11 divided by four.

12 * **Sec. 18.** AS 28.23.070 is amended to read:

13 **Sec. 28.23.070. Certificate of insurance.** A [TRANSPORTATION
14 NETWORK] company shall file a written certificate of insurance with the director of
15 the division of insurance demonstrating that the [TRANSPORTATION NETWORK]
16 company has satisfied the requirements of AS 28.23.050 **and 28.23.065. A** [. THE]
17 certificate of insurance must state that the applicable insurance policy may not be
18 cancelled unless written notice is provided to the division of insurance at least 30 days
19 before cancellation.

20 * **Sec. 19.** AS 28.23.080(a) is amended to read:

21 (a) Except as provided in (b) of this section, a transportation network company
22 **or delivery network company** is not an employer of transportation network company
23 drivers **or delivery network company couriers** under AS 23.10.699, AS 23.20.520,
24 or AS 23.30.395. A transportation network company driver **or delivery network**
25 **company courier** is an independent contractor for all purposes and is not an employee
26 of the [TRANSPORTATION NETWORK] company if the [TRANSPORTATION
27 NETWORK] company

28 (1) does not unilaterally prescribe specific hours during which a driver
29 **or courier** shall be logged onto the digital network of the [TRANSPORTATION
30 NETWORK] company;

31 (2) does not impose restrictions on the ability of the driver **or courier**

1 to use the digital network of other transportation network companies or delivery
2 network companies;

3 (3) does not restrict a driver or courier from engaging in any other
4 occupation or business; and

5 (4) enters into a written agreement with the driver or courier stating
6 that the driver or courier is an independent contractor for the [TRANSPORTATION
7 NETWORK] company.

8 * **Sec. 20.** AS 28.23 is amended by adding a new section to read:

9 **Sec. 28.23.150. Driver and courier minimum compensation.** (a) A
10 transportation network company shall compensate a driver for a prearranged ride at a
11 rate at least equal to 120 percent of the state minimum wage established in
12 AS 23.10.065. Additionally, a transportation network company shall compensate the
13 driver \$0.37 for each mile driven during the prearranged ride.

14 (b) A delivery network company shall compensate a courier for delivery
15 services at a rate at least equal to 120 percent of the state minimum wage established
16 in AS 23.10.065. Additionally, a delivery network company shall compensate the
17 courier \$0.37 for each mile driven while providing delivery services.

18 (c) On January 1 of each year, the per mile compensation in this section shall
19 be adjusted for inflation based on the percentage increase in the Consumer Price Index
20 for all urban consumers for urban Alaska for the previous calendar year as determined
21 by the United States Department of Labor, Bureau of Labor Statistics.

22 (d) A company may not count a gratuity paid to a driver or courier by a
23 customer toward the compensation that the company is required to pay the driver or
24 courier under this section.

25 * **Sec. 21.** AS 28.23.180(1) is amended to read:

26 (1) "digital network" means any online-enabled application, software,
27 website, or system offered or used by a

28 (A) transportation network company that enables the
29 prearrangement of rides with transportation network company drivers; or

30 (B) delivery network company to facilitate offers for
31 delivery services;

1 * **Sec. 22.** AS 28.23.180 is amended by adding new paragraphs to read:

2 (7) "company" means a transportation network company or a delivery
3 network company;

4 (8) "delivery network company" means a business entity that maintains
5 a digital network used to facilitate offers for delivery services in the state;

6 (9) "delivery network company courier" or "courier" means a person
7 who is authorized to accept and fulfill offers through the digital network of a delivery
8 network company; "delivery network company courier" or "courier" does not include
9 a person whose services require the use of a vehicle weighing more than 6,000
10 pounds;

11 (10) "delivery services" means the pickup of an item from a location in
12 the state and the delivery of that item to a location selected by the customer within 50
13 miles of the pickup location by walking or using a motor vehicle, a bicycle, a scooter,
14 public transportation, or other means of transportation and the selection, collection, or
15 purchase of items by a delivery network company courier, as well as other services
16 incident to delivery, beginning when a courier accepts an offer, continuing while the
17 courier transports the requested item to the selected location, and ending when the
18 courier completes the delivery or the delivery is canceled; "delivery services" does not
19 include assistance with residential moving services;

20 (11) "offer" means the opportunity to perform delivery services for
21 compensation that a delivery network company presents to a courier through a digital
22 network.

23 * **Sec. 23.** AS 28.23.050(d) is repealed.