

House Bill 3445

Sponsored by Representative MCLAIN

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs Commissioner of Bureau of Labor and Industries to appoint Transportation Network Company Oversight Board. Specifies membership of board. Directs board to periodically survey, collect and compile information concerning operations of transportation network companies and participating drivers and make recommendations to commissioner concerning appropriate rules, policies and practices that protect participating drivers and members of public.

Permits commissioner to adopt rules to implement recommendations of board and to enforce rules by means of orders, administrative proceedings or action in court of this state.

Becomes operative on January 1, 2018.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to labor practices of transportation network companies; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section:**

5 (a) **“Digital network” means a method for requesting a prearranged ride from a partic-**
6 **ipating driver using a software application, a website or another Internet-based electronic**
7 **technology that a transportation network company provides.**

8 (b) **“Participating driver” means an individual who:**

9 (A) **Receives a request through a digital network from a rider for a prearranged ride; and**

10 (B) **Offers or provides a prearranged ride to a rider in exchange for a fee that the rider**
11 **pays.**

12 (c) **“Participating vehicle” means a vehicle that a participating driver:**

13 (A) **Owns, leases or otherwise has authorization to use; and**

14 (B) **Actually uses to offer or provide prearranged rides to riders.**

15 (d) **“Prearranged ride” means transportation that a rider requests from a participating**
16 **driver by means of a digital network that:**

17 (A) **Begins at the time a participating driver accepts a rider’s request for transportation;**

18 (B) **Continues at any time during which the participating driver transports the rider and**
19 **any other individual for whom the rider also requests transportation; and**

20 (C) **Ends at a destination chosen by the rider or any other individual for which the rider**
21 **also requests transportation and at the time that the rider, or the last individual for whom**
22 **the rider requests transportation, exits the participating driver’s participating vehicle.**

23 (e) **“Rider” means an individual who uses a digital network to request a prearranged ride**
24 **from a participating driver.**

25 (f) **“Transportation network company” means a corporation, association, partnership,**
26 **limited liability company, limited liability partnership or other legal entity that operates a**
27 **digital network in this state by means of which a participating driver receives a request from**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 a rider for a prearranged ride.

2 (2)(a) The Commissioner of the Bureau of Labor and Industries shall appoint a Trans-
3 portation Network Company Oversight Board with the duties set forth in subsection (3) of
4 this section and with the following members:

5 (A) Four members who represent the public, of which one member must represent resi-
6 dents of this state who are 60 years of age or older and one member must represent persons
7 who have a disability;

8 (B) Three members who represent transportation network companies;

9 (C) Three members who represent participating drivers; and

10 (D) One member who represents the Bureau of Labor and Industries.

11 (b) A member of the board is entitled to compensation and expenses as provided in ORS
12 292.495.

13 (c) The bureau shall provide staff support to the board.

14 (3) The Transportation Network Company Oversight Board shall:

15 (a) Survey participating drivers and transportation network companies that operate in
16 this state each calendar quarter to determine the average rate of wage, percentage of fare
17 for a prearranged ride or other measurement of compensation that transportation network
18 companies pay participating drivers for each prearranged ride or on an hourly or other basis.

19 (b) Recommend to the commissioner changes to the rate of wage, the percentage of fare
20 of each prearranged ride or other method of compensation, or to the model or method that
21 transportation network companies use to calculate compensation for participating drivers,
22 on the basis of:

23 (A) The cost of living, and changes to the cost of living, in the region of this state where
24 the transportation network companies operate; and

25 (B) Adherence to the requirements of ORS chapters 652 and 653.

26 (c) Recommend to the commissioner rules for ensuring that participating drivers can
27 submit complaints to the bureau concerning discrepancies in compensation and breaches or
28 unilateral changes to agreements concerning the amount or rate of compensation due to
29 participating drivers.

30 (d) Compile and examine at least once each year transportation network company policies
31 and practices with respect to creating and maintaining personnel files and other documen-
32 tation concerning participating drivers and recommend to the commissioner standard poli-
33 cies and practices that enable each participating driver, at a minimum, to:

34 (A) Inspect and review personnel files and documents that a transportation network
35 company creates and maintains for the participating driver; and

36 (B) Dispute or otherwise respond to any item in the personnel files or documents.

37 (e) Compile and examine at least once each year the terms of any loan or leasing pro-
38 gram that a transportation network company establishes and maintains by means of which
39 a participating driver can buy or lease a participating vehicle and recommend to the com-
40 missioner standard loan or lease terms that:

41 (A) Do not disadvantage or otherwise discriminate against any participating driver in
42 intent, practice or effect, in a way that is contrary to law;

43 (B) Are clearly disclosed to the participating driver in a manner that enables the partic-
44 ipating driver to:

45 (i) Determine the risks and advantages of the loan or lease terms as compared with

1 competing loan or lease terms; and

2 (ii) Take into account the possibility, and the financial consequences, of the transporta-
 3 tion network company's decision to suspend or end the participating driver's connection to
 4 the transportation network company's digital network on a date that precedes the date on
 5 which the participating driver has paid off the loan or terminated the lease;

6 (C) Enable a participating driver to make required payments on the participating vehicle
 7 from a reasonable portion of the compensation the participating driver earns from providing
 8 prearranged rides; and

9 (D) Permit a participating driver to terminate a lease for a participating vehicle at any
 10 time that:

11 (i) The transportation network company no longer permits the participating driver to
 12 connect to the transportation network company's digital network; or

13 (ii) The participating driver cannot make required lease payments from a reasonable
 14 portion of the compensation the participating driver earns from providing prearranged rides.

15 (f) Compile and examine at least once each year transportation network company policies
 16 and practices for conducting background checks on and responding to complaints concerning
 17 participating drivers and recommend to the commissioner rules that govern how a trans-
 18 portation network company conducts background checks and responds to complaints con-
 19 cerning participating drivers.

20 (g) Compile and examine at least once each year transportation network company policies
 21 and practices for requiring or providing automobile liability insurance coverage for partic-
 22 ipating drivers and recommend rules for providing and allocating responsibility for providing
 23 automobile liability insurance coverage.

24 (h) Survey transportation network companies and participating drivers at least once each
 25 year concerning demand for and policies and practices for delivering enhanced access to
 26 participating vehicles to people with disabilities, along with requirements for providing facil-
 27 ities to enable people with disabilities to have access to participating vehicles and provisions
 28 for sharing costs for the facilities between transportation network companies and partic-
 29 ipating drivers.

30 (i) Recommend to the commissioner rules that enable access for people with disabilities
 31 to participating vehicles and equitable cost sharing between transportation network compa-
 32 nies and participating drivers for providing suitable access facilities.

33 (j) Compile and examine at least once each year transportation network company policies
 34 for required disclosures to riders concerning pricing, service levels, complaints, dispute re-
 35 solution and related matters and recommend to the commissioner a required set of standard
 36 disclosures to riders that all transportation network companies and participating drivers
 37 must make.

38 (k) Monitor on the commissioner's behalf transportation network company compliance
 39 with the labor and employment laws of this state.

40 (4)(a) The commissioner may adopt rules to implement a recommendation of the Trans-
 41 portation Network Company Oversight Board under subsection (3) of this section and, in
 42 response to a complaint or at the commissioner's own initiative, may enforce the rules the
 43 commissioner adopts by means of:

44 (A) An order and administrative proceeding under ORS chapter 183; or

45 (B) An action in a court of this state.

1 (b) An action to enforce a rule of the commissioner may include:

2 (A) Ordering a person to cease and desist from a violation of a rule of the commissioner;

3 (B) Imposing a civil penalty for a violation under ORS 183.745 in an amount the com-
4 missioner determines by rule; or

5 (C) Seeking damages against a transportation network company on behalf of an injured
6 participating driver or member of the public for a violation of a rule the commissioner
7 adopted to protect participating drivers or members of the public or seeking an injunction
8 or other equitable remedy to prevent, mitigate or reverse the effects of a violation of a rule
9 of the commissioner.

10 (c) The commissioner shall deposit any moneys the commissioner recovers as a civil
11 penalty under this subsection in the Bureau of Labor and Industries Account as provided in
12 ORS 651.160.

13 (d) The commissioner shall deposit any moneys the commissioner obtains as a result of
14 an action on behalf of a participating driver in the State Treasury to the credit of the Wage
15 Collection Account described in ORS 652.400.

16 (e) The commissioner may, with respect to any moneys the commissioner obtains as
17 damages as a result of an action on behalf of a member of the public:

18 (A) Remit the amount of the damages to the member of the public on behalf of whom the
19 commissioner brought the action; or

20 (B) Deposit the amount of the damages in the Bureau of Labor and Industries Account
21 and hold the moneys in trust for a period of not more than one year pending a claim from
22 the member of the public on behalf of whom the commissioner brought the action. If the
23 commissioner does not receive a claim for the moneys within the one-year period, the mon-
24 eys become part of the Bureau of Labor and Industries Account as provided in ORS 651.160.

25 **SECTION 2.** (1) Section 1 of this 2017 Act becomes operative January 1, 2018.

26 (2) The Commissioner of the Bureau of Labor and Industries may adopt rules and take
27 any other action before the operative date specified in subsection (1) of this section that is
28 necessary to enable the commissioner, on and after the operative date specified in subsection
29 (1) of this section, to exercise all of the duties, functions and powers conferred on the com-
30 missioner by section 1 of this 2017 Act.

31 **SECTION 3.** This 2017 Act being necessary for the immediate preservation of the public
32 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect
33 on its passage.

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