

State of Wisconsin



2025 Assembly Bill 269

Date of enactment:
Date of publication*:

2025 WISCONSIN ACT

AN ACT *to amend* 71.63 (2), 102.07 (8) (a) and 108.02 (12) (a); *to create* 71.05 (6) (a) 30., 71.05 (6) (b) 57., 71.83 (1) (f), 102.01 (2) (ae), 102.01 (2) (an), 102.01 (2) (ann), 102.01 (2) (anp), 102.01 (2) (ant), 102.01 (2) (dc), 102.01 (2) (ds), 102.01 (2) (gh), 102.07 (8) (bs), 103.08, 104.01 (2) (b) 6., 108.02 (12) (ds), 224.56 and 632.985 of the statutes; **relating to:** delivery network couriers and transportation network drivers, Department of Financial Institutions' approval to offer portable benefit accounts, providing for insurance coverage, modifying administrative rules related to accident and sickness insurance, and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.05 (6) (a) 30. of the statutes is created to read:

71.05 (6) (a) 30. For taxable years beginning after December 31, 2024, any amount distributed during the taxable year from a portable benefit account, as defined in s. 103.08 (1) (h), that was not used for a permissible use under s. 103.08 (3), except that this subdivision applies only to amounts for which a subtraction was made under par. (b) 57.

SECTION 2. 71.05 (6) (b) 57. of the statutes is created to read:

71.05 (6) (b) 57. For taxable years beginning after December 31, 2024, an amount equal to any contribution made during the taxable year to a portable benefit account, as defined in s. 103.08 (1) (h), by the owner of the account.

SECTION 3. 71.63 (2) of the statutes is amended to read:

71.63 (2) "Employee" means a resident individual who performs or performed services for an employer

anywhere or a nonresident individual who performs or performed such services within this state, and includes an officer, employee or elected official of the United States, a state, territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of these entities. The term includes an officer of a corporation, an entertainer and an entertainment corporation, but does not include a direct seller who is not treated as an employee under section 3508 of the Internal Revenue Code or a real estate broker or salesperson who is excluded under s. 452.38, or an application-based driver excluded under s. 102.07 (8) (bs).

SECTION 4. 71.83 (1) (f) of the statutes is created to read:

71.83 (1) (f) *Portable benefit accounts.* An owner of a portable benefit account, as defined in s. 103.08 (1) (h), who uses a distribution from the account for a purpose that is not a permissible use under s. 103.08 (3) is liable for a penalty equal to 10 percent of the amount of the distribution not used for a permissible use. The department shall assess, levy, and collect the penalty under

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

this paragraph in the same manner as it assesses, levies, and collects taxes under this chapter.

SECTION 5. 102.01 (2) (ae) of the statutes is created to read:

102.01 (2) (ae) “Application-based driver” means a delivery network courier or participating driver who provides services through the digital network of a network company.

SECTION 6. 102.01 (2) (an) of the statutes is created to read:

102.01 (2) (an) “Delivery network company” means a business that uses a digital network to connect customers to application-based drivers to facilitate delivery services.

SECTION 7. 102.01 (2) (ann) of the statutes is created to read:

102.01 (2) (ann) “Delivery network courier” means an individual who provides delivery services through a delivery network company’s digital network.

SECTION 8. 102.01 (2) (anp) of the statutes is created to read:

102.01 (2) (anp) “Delivery services” means the fulfillment of a delivery request by picking up from any location any item and delivering the item, by using a passenger vehicle, a bicycle, a scooter, public transportation, or other similar means of transportation or by walking, to a location selected by the customer that is typically located within 50 miles of the pickup location. “Delivery services” includes the selection, collection, or purchase of items by a delivery network courier, as well as other tasks incidental to the delivery.

SECTION 9. 102.01 (2) (ant) of the statutes is created to read:

102.01 (2) (ant) “Digital network” has the meaning given in s. 103.08 (1) (c).

SECTION 10. 102.01 (2) (dc) of the statutes is created to read:

102.01 (2) (dc) “Network company” means a delivery network company or a transportation network company.

SECTION 11. 102.01 (2) (ds) of the statutes is created to read:

102.01 (2) (ds) “Participating driver” has the meaning given in s. 440.40 (3).

SECTION 12. 102.01 (2) (gh) of the statutes is created to read:

102.01 (2) (gh) “Transportation network company” has the meaning given in s. 440.40 (6).

SECTION 13. 102.07 (8) (a) of the statutes is amended to read:

102.07 (8) (a) Except as provided in pars. (b) ~~and~~ (bm), ~~and~~ (bs), every independent contractor is, for the purpose of this chapter, an employee of any employer

under this chapter for whom he or she is performing service in the course of the trade, business, profession or occupation of such employer at the time of the injury.

SECTION 14. 102.07 (8) (bs) of the statutes is created to read:

102.07 (8) (bs) An application-based driver is not an employee or agent of a network company if the company refrains from doing all of the following:

1. Prescribing specific dates, times of day, or a minimum number of hours during which the application-based driver must be logged into the network company’s online-enabled application, software, or system.

2. Terminating the contract of the application-based driver for not accepting a specific delivery service request or request for transportation, except as prohibited by s. 440.45 (2).

3. Restricting the application-based driver from performing services through other network companies except while performing services through that network company.

4. Restricting the application-based driver from working in any other lawful occupation or business.

SECTION 15. 103.08 of the statutes is created to read:

103.08 Application-based drivers; portable benefits accounts. (1) **DEFINITIONS.** In this section:

- (a) “Application-based driver” has the meaning given in s. 102.01 (2) (ae).

- (b) “Delivery network company” has the meaning given in s. 102.01 (2) (an).

- (c) “Digital network” means an online-enabled application, software, website, or system that enables the provision of delivery services with delivery network couriers or the prearrangement of transportation network services, as defined in s. 440.40 (1).

- (d) “Earnings” means all moneys paid directly to an application-based driver, including incentives and bonuses, by a delivery network company or a transportation network company, or remitted to the application-based driver from a payment facilitated by a delivery network company or transportation network company, but not including amounts charged for fees, taxes, or other similar charges. “Earnings” does not include any payments for gratuities.

- (e) “Eligible driver” means an application-based driver whose earnings from an individual delivery network company or transportation network company totaled at least \$750, without combining earnings from network companies or delivery and rideshare services provided through the same company, during a calendar quarter.

- (f) “Loss of earnings” means a decrease of 50 percent or more in earnings in a calendar month from the

previous calendar month through no fault of the application-based driver.

(g) “Network company” means a delivery network company or a transportation network company.

(h) “Portable benefit account” means an account from which an individual may withdraw money for a permissible use under sub. (3) that is administered by a portable benefit account provider.

(i) “Portable benefit account provider” means a financial services provider or other person authorized under s. 224.56 (3) to offer and administer portable benefit accounts.

(j) “Transportation network company” has the meaning given in s. 440.40 (6).

(2) ADMINISTRATION AND CONTRIBUTIONS. (a) A network company may offer portable benefit accounts to eligible drivers but is not required to offer such accounts. A network company may make a contribution to a portable benefit account of an eligible driver but is not required to make such a contribution.

(b) If a network company elects to offer portable benefit accounts to eligible drivers, the network company shall ensure that any portable benefit account provider it selects makes available to eligible drivers, under the portable benefit account, at least 3 options for individual retirement account providers.

(c) If a network company elects to make contributions to portable benefit accounts of eligible drivers, all of the following apply:

1. The network company shall make any contribution to the default portable benefit account the company elects on behalf of a driver unless the driver has selected a different account and timely notified the network company.

2. If an application-based driver qualified as an eligible driver for an individual network company for that network company for an entire calendar quarter, each calendar quarter following a quarter in which the eligible driver so qualified, the network company shall contribute to the portable benefit account of the eligible driver an amount equal to 4 percent of the eligible driver’s earnings in the preceding calendar quarter that the driver earned through that company. A driver must qualify as an eligible driver individually for each network company. The company shall make the contribution no later than the 30th day of the calendar quarter.

(d) If a network company elects to offer portable benefit accounts to eligible drivers, the network company shall allow an eligible driver to elect to contribute to the eligible driver’s portable benefit account, and may deduct the amount elected by the eligible driver from the individual’s earnings and designate such amount for contribution to the portable benefit account. The company shall make the contribution on behalf of the eligi-

ble driver no later than the 30th day of the calendar quarter.

(e) A network company shall make contributions under par. (c) in addition to, and not as a deduction from, driver earnings.

(3) PERMISSIBLE USES. An eligible driver who has money in a portable benefit account may receive a distribution of amounts for any of the following:

(a) To compensate for lost income due to any of the following:

1. An illness or accident of the driver.

2. Loss of work due to the birth or adoption of a child of the driver.

3. Loss of work due to declared federal state of emergency or emergency declared by the governor under s. 323.10.

(b) To transfer the money to an individual retirement account, except that no such transfer may be made in an amount that exceeds the limit established by section 219 (b) (1) of the Internal Revenue Code for the aggregate amount of contributions to an individual retirement account for the taxable year in which the transfer is made.

(c) To pay premiums for health, vision, or dental insurance coverage in the individual market.

(d) Loss of earnings.

(4) ELIGIBILITY DURATION. An eligible driver shall remain an eligible driver of the delivery network company or transportation network company for 3 calendar quarters following the initial quarter of eligibility, regardless of the amount of earnings the application-based driver has during those 3 quarters. In each subsequent calendar quarter an application-based driver may only qualify as an eligible driver of the delivery network company or transportation network if the driver has \$750 of earnings in the calendar quarter.

(5) NONSEVERABILITY. This section does not apply if a court finds s. 102.07 (8) (bs) invalid.

SECTION 16. 104.01 (2) (b) 6. of the statutes is created to read:

104.01 (2) (b) 6. An individual excluded under s. 102.07 (8) (bs).

SECTION 17. 108.02 (12) (a) of the statutes is amended to read:

108.02 (12) (a) “Employee” means any individual who is or has been performing services for pay for an employing unit, whether or not the individual is paid directly by the employing unit, except as provided in par. (bm), (c), (d), (dm) ~~or~~ (dn), or (ds).

SECTION 18. 108.02 (12) (ds) of the statutes is created to read:

108.02 (12) (ds) Paragraph (a) does not apply to an individual who is performing services for an employing unit other than a government unit, an Indian tribe, or a

nonprofit organization and who is excluded under s. 102.07 (8) (bs).

SECTION 19. 224.56 of the statutes is created to read:

224.56 Portable benefit accounts. (1) In this section:

(a) “Eligible driver” has the meaning given in s. 103.08 (1) (e).

(b) “Financial services provider” means any of the following:

1. A financial institution, as defined in s. 214.01 (1) (jn).

2. An investment management firm.

3. A technology provider or program manager that offers services through a financial services provider identified in subd. 1. or 2.

(c) “Portable benefit account” has the meaning given in s. 103.08 (1) (h).

(d) “Qualifying event” means an event described in s. 103.08 (3) (a).

(2) A financial services provider or other person may request approval from the department to offer portable benefit accounts. If the financial services provider or other person demonstrates to the satisfaction of the department that the manner in which the financial services provider or other person will administer the portable benefit account will be consistent with s. 103.08 (2) and (3), and the financial services provider or other person satisfies any applicable rule under sub. (7), the department shall approve the request.

(3) A financial services provider or other person approved by the department under sub. (2) may offer and administer portable benefit accounts.

(4) A financial services provider or other person authorized to offer and administer portable benefit accounts under sub. (3) may include an income replacement benefit to be made available to eligible drivers upon the occurrence of any qualifying event.

(5) A financial services provider may not commingle assets in a portable benefit account with other property, except these assets may be held in a common trust fund or common investment fund.

(6) A financial services provider shall ensure that, if at the time of an eligible driver’s death the eligible driver has arranged for distributions from a portable benefit account as provided in s. 103.08 (3) (b), the remaining balance in the portable benefit account is immediately distributed in the form of a direct trustee-to-trustee transfer to the eligible driver’s individual retirement account upon the eligible driver’s death.

(7) The department may promulgate rules related to the process and requirements for the department’s approval under sub. (2).

(8) This section does not apply if a court finds s. 102.07 (8) (bs) invalid.

SECTION 20. 632.985 of the statutes is created to read:

632.985 Insurance coverage provided by network companies. (1) **DEFINITIONS.** In this section:

(a) “Application-based driver” has the meaning given in s. 102.01 (2) (ae).

(b) “Average weekly earnings” means an application-based driver’s total earnings from all network companies during the 28 days prior to a covered incident divided by 4.

(c) “Digital network” has the meaning given in s. 103.08 (1) (c).

(d) “Earnings” has the meaning given in s. 103.08 (1) (d).

(e) “Maximum compensation rate” means the applicable maximum compensation rate under s. 102.11 and any applicable limitation on supplemental benefits under s. 102.44.

(f) “Network company” means a delivery network company, as defined in s. 102.01 (2) (an), or a transportation network company, as defined in s. 440.40 (6).

(2) **ACCIDENT AND SICKNESS INSURANCE.** (a) A network company may carry, provide, or otherwise make available group or blanket accident and sickness insurance coverage for application-based drivers who provide covered services through the network company’s digital network.

(b) A network company shall make available, upon reasonable request, a copy of the policy it carries, provides, or otherwise makes available under this subsection.

(c) Chapter 102 does not apply to a group or blanket accident and sickness insurance policy described in par. (a).

(3) **OCCUPATIONAL ACCIDENT INSURANCE.** (a) A network company may carry, provide, or otherwise make available group or blanket occupational accident insurance to cover the medical expenses and lost income resulting from an injury suffered by an application-based driver while engaged on the network company’s digital network. For purposes of this paragraph, an application-based driver is engaged on the network company’s digital network during the time beginning when the application-based driver accepts a rideshare request or delivery request and ending when the application-based driver completes that rideshare request or delivery request.

(b) A network company shall make available, upon reasonable request, a copy of the policy it carries, provides, or otherwise makes available under this subsection.

(c) A policy under this subsection shall provide, in aggregate, at least \$1,000,000 of coverage and at least all of the following:

1. \$250,000 of coverage for medical expenses.
2. Continuous weekly disability income payments for total disability, temporary disability payments, or partial disability that are equal to not less than $66 \frac{2}{3}$ percent of the application-based driver's average weekly earnings from all network companies as of the date of injury but not more than the maximum compensation rate, unless the application-based driver's average weekly earnings are less than \$100, in which case the payments under this subdivision shall be equal to the application-based driver's average weekly earnings. Payments under this paragraph shall be made for up to the first 104 weeks following the injury.

3. For the benefit of spouses, children, or other dependents of application-based drivers, accidental death insurance, for injuries suffered by an application-based driver while the application-based driver is engaged on the network company's digital network that result in death, in an amount equal to $66 \frac{2}{3}$ percent of the application-based driver's average weekly earnings from all network companies as of the date of injury but not more than the maximum weekly compensation rate, unless the application-based driver's average weekly earnings are less than \$100, in which case the amount shall be equal to the application-based driver's average weekly earnings, multiplied by 104.

(d) If a claim is covered by occupational accident insurance maintained by more than one network company, the insurer of the network company against whom a claim is filed is entitled to a contribution for the pro rata share of coverage attributable to one or more other network companies up to the coverages and limits in par. (c).

(e) Any benefit provided to an application-based driver under an occupational accident insurance policy described in par. (a) shall be treated as amounts payable under a worker's compensation law or disability benefit for the purpose of determining amounts payable under insurance provided under s. 632.32 (4) or (4m).

(4) NONSEVERABILITY. This section does not apply if a court finds s. 102.07 (8) (bs) invalid.

SECTION 21. Ins 3.14 (6) (intro.), (a), (b) and (c) of the administrative code are amended to read:

Ins 3.14 (6) (intro.) ELIGIBLE GROUPS. In accordance with s. 600.03 (23), Stats., an eligible group includes any of the following:

(a) The members of the board of directors of a corporation ~~are eligible to be~~ covered under a group accident and sickness policy issued to such ~~corporation, corporation,~~ corporation.

(b) The individual members of member organizations of an association, as defined in s. 600.03 (23), Stats., ~~are eligible to be~~ covered under a group accident and sickness policy issued to such association insuring employees of such association and employees of member organizations of such association, ~~and.~~

(c) The individuals supplying raw materials to a single processing plant and the employees of such processing plant ~~are eligible to be~~ covered under a group accident and sickness policy issued to such processing plant.

SECTION 22. Ins 3.14 (6) (d) of the administrative code is created to read:

Ins 3.14 (6) (d) Application-based drivers, as defined in s. 632.985 (1) (a), Stats., of a network company, as defined in s. 632.985 (1) (f), Stats., covered under a group accident and sickness policy issued to the network company. This paragraph does not apply if a court finds s. 102.07 (8) (bs), Stats., invalid.

SECTION 23. Ins 3.15 (4) (a) 16. of the administrative code is created to read:

Ins 3.15 (4) (a) 16. Application-based drivers, as defined in s. 632.985 (1) (a), Stats., of a network company, as defined in s. 632.985 (1) (f), Stats. This subdivision does not apply if a court finds s. 102.07 (8) (bs), Stats., invalid.

SECTION 24. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of administrative rules takes effect as provided in s. 227.265.