



# REPORT ON THE DIGITAL APPLICATION BASED MICRO-MOVER TASK FORCE

Pursuant to Chapter 299, Laws of  
2018, Section 141 (6)(ENGROSSED  
SUBSTITUTE SENATE BILL 6032)

Dec. 15, 2018



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## I. INTRODUCTION

The purpose of this report is to focus on regulations affecting digital application-based micro movers (DAMMs) across state agencies. This report broadly defines DAMMs as those entities entering into agreements to move household goods or advertising or soliciting to move household goods through an internet-based application.<sup>1</sup>

The 2018 Legislature introduced two bills dealing with DAMMs: Senate Bill 6234 and House Bill 2604. While neither bill passed the legislature, the bills prompted discussion regarding the existing regulatory framework for household goods movers and the applicability of those regulations to DAMMs. A summary of the bills and amendments is attached to this report as an Appendix.

The 2018 Legislature also directed the Utilities and Transportation Commission (UTC) through a budget proviso to “convene a task force to make recommendations and report to the legislature regarding the most effective method of regulation of digital application-based micro-movers and the small goods movers that utilize their digital application.”<sup>2</sup>

In July 2018, the commission convened an inclusive task force of stakeholders, state agencies, and representatives from the household goods, solid waste and trucking industries, and business and labor organizations.

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<sup>1</sup> Neither the term “digital application-based micro-movers” nor “micro-mover” is defined in statute or, apparently, by industry standards. When used as a search term, no results appear on Google or Bing. At least one company offers “mini and small moves” in addition to “apartment moves.” (*See* <https://dolly.com/>).

House Bill 2604, heard during the 2018 Washington legislative session, contained terms similar to DAMMs as used in this report. It defined a “carrier network company, or CNC, as any entity that “provides a digital network or software application for the purpose of brokering the transportation of property for compensation between customers and CNC operators (CNCO).” In turn, it defined a CNCO as “an operator that uses a CNC digital network or software application to transport property brokered by a CNC. A CNC must conduct such transportation using a standard sized pickup or other noncommercial motor vehicle. . . .” Senate Bill 6234, also heard during the 2018 session, provided a similar definition to the term “network company.”

<sup>2</sup> ESB 6032, Supplemental Operating Appropriations, Section 141(6).

In addition to commission staff, the task force comprised the following:

- Jim Tutton, Washington Movers Conference
- Tammy Fellin, Department of Labor and Industries
- Nick Streuli, Employment Security Department
- Mike Ennis, Association of Washington Businesses
- Joe Kendo, Washington State Labor Council
- Brad Lovaas, Washington Refuse and Recycling Association
- Majken Ryherd, Joint Council of Teamsters #28
- Teresita Torres, Joint Council of Teamsters #28
- Armikka Bryant, Dolly, Inc.
- Jon Hedegard, Allstate
- Jean Leonard, Lobbyist for Nationwide, State Farm, and Washington Insurers
- Karen Lang, PEMCO
- Lonnie Johns-Brown, Washington State Office of the Insurance Commissioner
- Dave Hamilton, Delivery Express
- Joanie Deutsch, Technology Network
- Sheri Call, Washington Trucking Association
- Rose Feliciano, Internet Association

The task force agreed to evaluate the current regulatory framework as it relates to the DAMM industry. This report outlines the task force's work and recommendations.

The commission's position is that policies and regulations should steer innovation to improve mobility and safety, but should not allow technology to undermine consumer protection and public safety.

## **II. REGULATION OF HOUSEHOLD GOODS MOVERS IN WASHINGTON STATE**

Among other responsibilities, the UTC is the state's watchdog agency in charge of setting rates and enforcing consumer protection and safety regulations for about 300 residential moving companies operating within Washington's borders.<sup>3</sup> The commission's primary mission in regulating household goods carriers is to protect consumers and the public. The commission does not regulate interstate moving companies; the Federal Motor Carrier Safety Administration has jurisdiction over interstate moves.

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<sup>3</sup> See Title 80-81 RCW. The UTC also regulates investor-owned electric and natural gas utilities, landline telephone companies, solid waste collectors, and private water systems to ensure vital services are safe, available, reliable, and fairly priced.

Household goods movers are persons transporting household goods between residences or between a person's residence and a storage facility within the state, or advertising, soliciting, offering, or entering into an agreement to transport household goods.<sup>4</sup>

Those meeting the statutory definition of a household goods carrier are subject to the commission's authority to enforce vehicle and driver safety, consumer protection, insurance standards, and tariff rates.<sup>5</sup>

Moving companies are required to register and obtain a permit from the commission before conducting business. They must charge approved rates, meet minimum insurance requirements to cover a customer's property, background check and drug test employees, and safely maintain their vehicles. Commission staff conduct regular safety and consumer protection reviews of registered movers to ensure companies comply with these requirements.

UTC rules for in-state movers include:

- Mandatory criminal background checks and drug testing for employees.
  - No convictions for certain felony crimes in the previous five years.
- Holding a valid Washington state driver's license.
- Mandatory enrollment in a drug and alcohol testing program.
- Owning or leasing proper equipment.

Permit applicants pay a one-time application fee of \$550 and must complete a six-month probationary period. An applicant may obtain permanent authority to conduct residential moves within the state if they meet the following additional requirements:

- Completing a criminal background check on each employee having contact with a residential customer.
- Receiving a satisfactory safety rating review of its vehicles and equipment from UTC motor carrier safety staff.
- Settling unresolved consumer complaints.
- Attending a UTC-sponsored household goods industry training class.

Regulated companies must also file annual reports detailing business and safety operations and pay a regulatory fee, calculated based on a percentage of annual revenue.

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<sup>4</sup> RCW 81.80.010(5) defines "household goods carrier" as "a person who transports for compensation, by motor vehicle within this state, or who advertises, solicits, offers, or enters into an agreement to transport household goods as defined by the commission."

<sup>5</sup> State economic regulation of the rates, routes, and services of motor carriers of property was preempted effective Jan. 1, 1995, by federal law, with the exception of household goods carriers. *See* Section VI of the Federal Aviation Administration Authorization Act of 1994, Pub. L. No. 103-305, 108 Stat. 1569.

The commission investigates consumer complaints against permitted and non-permitted household goods movers, and conducts compliance investigations into companies' business practices, taking enforcement action against violators of state laws or rules.

In 2009, the Legislature strengthened household goods laws to reduce the number of illegal movers operating in the state and remove unsafe vehicles and unfit drivers from the roads.<sup>6</sup>

Illegal moving companies are often fly-by-night operations luring customers with low prices and later demanding more money once they have a customer's belongings on their truck. Unpermitted companies are known to inflate moving estimates, steal or damage property, and skip town, leaving a trail of frustrated customers in their wake with no recourse for recovering losses.

Previously, the commission was required to obtain proof that a company provided a move, such as a contract, bill of lading, and a cancelled check. This was problematic because illegal movers rarely use written contracts and often demand cash payment. Also, many consumers were unwilling to provide documentation or testify against an illegal mover out of fear for their personal safety. The law now bans movers from advertising their services without first obtaining a valid Washington permit.

Today, the commission is able to take action immediately against an illegal moving company instead of waiting years to attain the right combination of documentation and a fearless consumer. Since the law was changed in 2009, the commission has taken action against hundreds of unpermitted household goods carriers, either to bring them into compliance or to order them to cease and desist illegal operations.

### **III. RELEVANT UTC PROCEEDINGS**

Historically, the UTC's enforcement proceedings have addressed safety and consumer protection concerns regarding traditional intrastate moving companies, *i.e.*, companies supplying their own trucks and employees to perform moves. Enforcement is facilitated by the fact that the companies themselves, as opposed to their individual drivers and employees, are tasked with compliance with state regulation.

In recent years, however, the commission has been forced to consider efforts to change the traditional passenger transportation and moving company business models. In most cases, these efforts involve companies asserting they are not subject to UTC safety and consumer protection rules because they contract with independent operators who use their own vehicles.

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<sup>6</sup> House Bill 1536 added language to RCW 81.80.010 to include in the definition of household goods carrier any person "who advertises, solicits, offers, or enters into an agreement to transport household goods."

In its consideration of these cases, the commission continues to be guided by the public interest in safety and consumer protection. Household goods movers are persons who enter a consumer's premises and take temporary custody of all or part of their private property. When a company holds itself out as a household goods mover, customers assume that the company is in compliance with safety and consumer protection regulations, that the persons performing the move are not likely to be dangerous, and that the company has the ability to cover any damage to property that may occur during a move.

These are not theoretical concerns. Since 2015, the UTC has cancelled the permits of 53 moving companies for failure to carry required insurance policies. It has also cancelled permits of movers who have taken customers' property hostage while demanding more money, threatened physical harm to customers, and failed to disclose extensive criminal records involving assault, theft, indecent exposure, reckless driving, and possession of stolen property.<sup>7</sup>

When a new business model involves the use of independent contractors who themselves may not be permitted, the UTC must be confident that the contractors who actually perform the moves have appropriate insurance and are carefully screened to provide service that is safe and reliable. This is reflected in the commission's consideration of a number of recent cases before it, as discussed below.

*Blessed Limousine, Inc.*

In 2015, Blessed Limousine, Inc., argued that it was not required to be regulated by the UTC as a charter party or excursion carrier service carrier because it used subcontractors to provide transportation services and did not own any motor vehicles of its own. However, during the classification proceeding, the company was unable to provide any documentation about its drivers, other than to provide two names, "Gary" and "Rick," and the phone numbers of two UTC-certificated carriers. The company provided no information about whether "Rick" or "Gary" had valid drivers' licenses, auto insurance, liability insurance, recent drug tests, or criminal records, and failed to provide documentation about specific rides or whether the rates charged were those advertised.

The commission rejected the company's arguments and classified Blessed Limousine as a charter and excursion service carrier after deciding that the company's practice of subcontracting charter party carrier services violated the public service laws. The commission ordered the company to cease and desist from its unlawful operations and imposed a \$10,000 penalty for violations of the public service laws. The commission initially suspended \$6,000 of the penalty, but ultimately

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<sup>7</sup> See, e.g., *In re Application of Jay the Mover LLC*, Docket TV-120329, Order 02 (July 18, 2012).

imposed the full penalty amount when Blessed Limousine failed to comply with the commission's order.<sup>8</sup>

### *Shuttle Express*

In 2016, the UTC received a complaint alleging that Shuttle Express, Inc., a passenger transportation company provide airporter service in the Seattle area, was in violation of state rules because it used independent contractors, rather than its own drivers and vehicles, to provide regulated service. In this case, Shuttle Express entered into agreements with its customers to provide auto transportation service, then contracted that service to limousine operators. The company collected payment from its customers, then remitted a portion of that payment to the contracted driver. It argued that the service was not subject to commission regulation because it was provided in vehicles the company did not own operated by drivers the company did not employ.<sup>9</sup>

The commission rejected the company's arguments. Because Shuttle Express was found to arrange the ride with the customer, dispatch the third-party vehicle, receive the customer's money, and pay the driver out of the funds received, the commission found that the company met the definition of an auto transportation company, and that the use of third-party drivers "was a distinction without a difference" for purposes of UTC regulation.<sup>10</sup>

### *Ghostruck Inc.*

Ghostruck established itself as a Washington-based business in December 2013, offering a web-based application for household goods moving services. The commission first learned of Ghostruck from a June 2014 Puget Sound Business Journal article entitled "An Uber for moving your stuff." The UTC advised the company to cease operations until it had applied for and obtained a permit from the commission.

The company responded that it was not actually providing moving services, but was connecting consumers seeking moving services with professional movers. However, the company conceded that if it was not able to schedule a move with an independent moving company within an hour, it would conduct the move itself through its subsidiary, Empty Truck, Inc. The company subsequently sought and obtained provisional operating authority from the commission, but the commission dismissed its application for permanent authority three months later, on December 22, 2014, after the company failed to provide proof of liability and property damage insurance. Despite the lack of a UTC permit, the company continued to perform moves until at least March of 2015.

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<sup>8</sup> *In the Matter of Determining the Proper Carrier Classification of, and Complaint for Penalties against: Blessed Limousine, Inc.*, Docket TE-151667, Order 02 (Dec. 7, 2015), *aff'd*, Order 03 (Jan. 26, 2017).

<sup>9</sup> *In the Application of Speedishuttle Washington, LLC d/b/a Speedishuttle Seattle For a Certificate of Public Convenience and Necessity to Operate Motor Vehicles in Furnishing Passenger and Express Service as an Auto Transportation Company*, Docket TC-143691, Order 13 (Nov. 17, 2017).

<sup>10</sup> *Id.*, citing RCW 81.68.010(3).

The UTC noted in its order that Ghostruck advertised in ways that implied it would provide the move itself, and did not provide customers with any information about the carrier that would actually perform the move. Of the 141 household goods moves reviewed in its investigation, the UTC also did not find a single instance where the company provided customers with information required by law, including written estimates, supplemental estimates, bills of lading, tables of measurements, or the consumer guide “Moving in Washington State,” which informs customers of their rights and responsibilities related to moving services.

The commission imposed a penalty of \$75,500 for 146 violations of the public service laws, but suspended \$56,400 to incent compliance with the cease and desist order. Ghostruck never paid the penalty.<sup>11</sup>

#### *Moves for Seniors*

In this case, Transit Systems, Inc., a Pennsylvania corporation doing business as Movers for Seniors, asserted that it was merely a broker of moving services, and therefore not subject to UTC jurisdiction. However, in its advertising and consumer information, the company held itself out as providing moving services, and did not meet the federal definition of a broker.<sup>12</sup>

During a UTC investigation, the company conceded that its customers do not enter into separate agreements with the movers themselves. The investigation also found that the company did not provide written estimates for moves as required by UTC regulations, and that estimates provided to investigators listed the company as the customer and were not signed by consumers. The company further conceded that when it contracted with third parties, those companies were often unlicensed and therefore offered no proof of auto or liability insurance, drug testing, or criminal background screenings.

In this case, the commission imposed a penalty of \$10,000 for two violations of the public service laws, but suspended \$5,000 of the penalty to incent compliance with the cease and desist order. Moves for Seniors paid the unsuspended portion of the penalty.<sup>13</sup>

#### *Dolly, Inc.*

Dolly, Inc. is a Delaware-based corporation that offers “small moves” and “apartment moves” in several states. It uses a digital platform that consists of a mobile application and website. Through this platform, customers enter into agreements for the transportation of household goods.

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<sup>11</sup> *In the Matter of Determining the Proper Carrier Classification of, and Complaint for Penalties Against Ghostruck, Inc.*, Docket TV-161308, Order 04 (April 25, 2017).

<sup>12</sup> See FMCSA, “Protect Your Move: Movers v. Brokers,” available at <https://www.fmcsa.dot.gov/protect-your-move/movers-vs.brokers>.

<sup>13</sup> *In the Matter of Determining the Proper Carrier Classification of, and Complaint for Penalties Against Transit Systems, Inc. d/b/a Moves for Seniors*, Docket TV-170747, Order 03 (February 13, 2018).

When the UTC investigated the company in 2017, Dolly offered no evidence that it screens its contractors to ensure that they have necessary permits from the UTC. To the contrary, staff found that the company included “Terms of Service,” on its web page, which stated that customers who download Dolly’s internet-based platform “agree to be bound by all the terms” in the Terms of Service. Customers do not enter into separate agreements with any household goods carrier Dolly may have engaged to conduct the physical move. Dolly relies on what it calls a “network of Helpers” who perform moving services. Customers pay Dolly directly, and have no contractual relationship with the “Helper.”

The commission also found that in its Terms of Service Dolly does “not represent or warrant that any Helper will meet [the customer’s] expectations or instructions in performing any Services.” The Terms of Service also state that any disputes regarding performance are “between [the customer] and the applicable Helper.” Dolly states that it is “not responsible for the replacement or repair of any . . . personal property that may be damaged by a Helper while performing the Services” that Dolly offers. It also states that “to the extent not prohibited by law” it disavows any liability to the customer for the loss of property or “other damages or losses.” The Terms of Service also require customers to give up any right they may have to litigate, and instead require mediation and then arbitration of any disputes, and limit the manner in which customers can seek relief from the company.

In March 2018, an administrative law judge found that Dolly Inc. was operating as a household goods moving company, a motor carrier, and a solid waste carrier without the required permits from the UTC, citing 25 violations of state law. The commission assessed a \$69,000 penalty against the company for violating state transportation regulations and ordered the company to cease and desist its operations in Washington.<sup>14</sup>

In May 2018, the commission suspended the entire penalty for two years on the condition that Dolly stop operating in Washington unless it obtains a permit from the UTC.

In July 2018, a commission staff investigation found that the company was continuing to advertise and operate in Washington and recommended the commission impose the suspended penalty. On Aug. 3, an administrative law judge found that Dolly failed to comply with the commission’s order and imposed the suspended penalty.<sup>15</sup> Although the full \$69,000 penalty was due immediately, the company did not pay the penalty until November 2, 2018. As of the date of this report, the company continues to operate in violation of the UTC’s cease and desist order.

Dolly has appealed the commission’s decision to Thurston County Superior Court. Briefings are scheduled for March 8, 2019.<sup>16</sup>

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<sup>14</sup> *In the Matter of Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly, Inc.*, Docket TV-171212, Order 02 (March 29, 2018),

<sup>15</sup> Docket TV-171212, Order 06 (August 3, 2018).

<sup>16</sup> *See Dolly, Inc. v. Washington Utilities and Transportation Commission*, No. 18-2-03006-34 (Thurston County Superior Court, filed June 15, 2018).

### *Dolly Petition for Rulemaking*

During the pendency of the UTC enforcement proceeding, Dolly petitioned the commission to amend its motor carrier rules to define companies like Dolly as “carrier network companies,” and to define “helpers” as “micro-movers,” and requested that the commission exempt such entities from regulation. An alternative request was made to have the commission initiate a rulemaking, engage stakeholders, and adopt reasonable regulations to address Dolly’s concerns.

The commission found that, as Dolly described in its petition, it “advertises, solicits, offers, or enters into an agreement to transport household goods” and thus is a household goods carrier as defined by the statute. The “Helpers” Dolly describes “transport for compensation, by motor vehicle within this state . . . household goods” and thus are also household goods carriers by statutory definition. The commission cannot modify this definition or otherwise exempt Dolly and its Helpers from regulation since only the legislature can amend the statute.

The commission noted in this case that, based on the existing statutory definition of household goods carrier, the DAMM and the mover that utilizes its platform would need to obtain a permit from the commission.<sup>17</sup>

### *Dolly Application for Household Goods Permit*

In July 2018, Dolly filed an application for a household goods permit and, subsequently, filed a request for exemption from numerous commission rules. In September, the commission issued a Notice of Intent to Deny Dolly’s application, citing the company’s continued operations in violation of the commission’s cease and desist order as evidence that the company is “knowingly and flagrantly disregarding the commission’s authority.”<sup>18</sup> Dolly requested a hearing to contest staff’s allegations. That case is currently pending before the commission.

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<sup>17</sup> *In the Matter of the Petition of Dolly, Inc., To Amend Motor Carrier Rules or in the Alternative to Initiate Rulemaking*, Docket TV-170999, Order 01 (October 31, 2017).

<sup>18</sup> *In re Application of Dolly, Inc. for a permit to operate as a motor carrier of household goods and a permit to operate as a motor freight common carrier*, Docket TV-180605, Notice of Intent to Deny Application for Permanent Authority; Notice of Opportunity for Hearing ¶19 (September 21, 2018).

## **IV. TASK FORCE MEETING SUMMARIES**

### **Initial Task Force Meeting**

The commission held the first task force meeting on July 10, 2018, to give an overview of the proviso in ESB 6032, the commission's authority over household goods carriers, and the scope and timeline of the task force as outlined in the budget proviso.

Included in that overview was:

- a) Dolly's request to have the commission initiate a rulemaking to redefine "household goods carrier" to include DAMMs;
- b) the commission's focus on ensuring consumer protection, safety, and the ability to enforce any legislation that was passed during the 2018 legislative session;
- c) the commission's existing authority over household goods movers;
- d) an overview of active concurrent state workgroups with overlapping issues (autonomous vehicles, transportation network companies, taxi and for-hire companies, and independent contractors);
- e) the timeline of the report due to the legislature; and
- f) a proposed report outline.

The discussions that took place during this meeting led the group to question whether existing state law is already adequate for the regulation of intrastate household goods movers that use emerging technology to transport household goods by motor vehicle for compensation or to advertise, solicit, offer, or enter into an agreement to transport household goods.

At the conclusion of the first task force meeting, the participants determined there are already resource constraints on the commission's ability to regulate household goods carriers and that task force members needed to better understand potential gaps in the current regulatory framework. The task force requested a cross-walk analysis of existing regulations covering household goods carriers along with arguments, complaints, petitions, and concerns from DAMMs regarding their ability to comply with existing laws.<sup>19</sup> The cross-walk analysis, including provisions from Labor and Industries, the Office of the Insurance Commissioner, and the Employment Security Department, is attached as an Appendix to this report.

### **Second Task Force Meeting**

The second task force meeting, held Sept. 12, 2018, focused on the cross-walk analysis requested at the first meeting.

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<sup>19</sup> Crosswalk tables are an essential analytical tool that link together a range of regulatory units and structures that are not otherwise linked.

At the request of task force participants, the commission conducted an analysis of known issues that DAMM companies have expressed, covering:

- a) requirements to receive a permit;
- b) enforcement and oversight of consumer protection and safety; and
- c) the legislature's direction to the commission under RCW 81.80.010(5), incorporated by rule through WAC 480-15-020, requiring companies to have a permit from the UTC to transport, advertise, solicit, offer, or enter into an agreement to transport household goods for compensation, by motor vehicle over public roads, between two points within the state of Washington.

The results of that initial analysis are represented in the Appendix, Table (A), Conflict Between Household Goods Legal Framework and the Digital App-based Micro Mover (DAMM) Model. Further regulatory overview and analysis, without the benefit of the DAMM business model, is provided in the Appendix, Table (B).

During its discussion with task force members, the commission noted that one of the primary conflict points for DAMM companies pertains to the definition and scope of a household goods mover. There was also significant discussion and general support around the need to ensure consumer protection and safety and to regulate existing unregulated movers. The second task force meeting concluded with the commission soliciting feedback and comments on the cross-walk analysis for inclusion in the report and to enable further discussion.

At the end of the second task force meeting, the commission circulated the following issues to the task force for further discussion:

- 1) Since it is agreed that consumer protection and safety must be a priority in any recommendation considered by the task force, how does the commission ensure consumer protection and safety for a digital app-based micro mover?
- 2) Is the current process for obtaining a permit from the UTC cost prohibitive or complicated?
- 3) During the meeting, regulating "household goods brokers" was brought up as an option. Would regulating household goods brokers address the concerns detailed in the cross-walk by the DAMMs?
- 4) What are the primary concerns that should be considered when making a recommendation?
- 5) Are there any additional comments, concerns, issues, or edits for the crosswalk?

## V. TASK FORCE RESPONSE COMMENTS

Below is a summary of task force member statements and comments:

### **Association of Washington Business**

- Companies like digital app based micro-movers should be allowed to innovate and provide needed services in a free market.
- AWB also recognizes the role of government in implementing regulations that ensure an even playing field among competing industries and, more importantly, to provide protections for consumers. In this case, DAMMs are seeking a statewide regulatory scheme for their industry.
- AWB opposes any changes to the existing independent contractor requirements while they are currently under review by a separate task force. This includes opposing any recommendations to amend the definition of a truck.

### **Dolly, Inc.**

- Dolly states that it does not meet the definition of a household goods carrier in RCW 81.80.010 because it does not advertise that it transports household goods or enter into agreements to transport household goods.
- Dolly stated that due to the ease, convenience, and affordability that DAMMs offer Washington consumers, customers prefer using a DAMM to complete micro-moves.
- Dolly believes that DAMMs present an opportunity for the commission to license and regulate a population of individuals who would otherwise perform unregulated household goods carrier services.

### **Teamsters Joint Council 28**

- The commission should not eliminate protections for consumers by creating special rules of the road for DAMMs. Moving companies are currently required to conduct criminal background checks, meet minimum insurance requirements, maintain an approved drug and alcohol testing program for employees, and show proof that the employees have been properly trained.
- The commission should continue to enforce its regulations against DAMMs, including Dolly, to ensure that all consumers, including consumers whose moving needs are relatively small, are afforded the protections they need and deserve.
- The activity described as “household goods broker” falls under the existing statutory definition of a “household goods carrier.” There is no need to create a separate category.

### **Washington Movers Conference**

- The Federal Motor Carrier Safety Administration (FMCSA) website, “Protect Your Move”, defines a household goods (HHG) broker at the interstate level as “a company that arranges for the transportation of your cargo, utilizing for-hire carriers to provide the actual truck transportation. Moving brokers are sales teams that book your move and then sell it to an actual moving company. A HHG moving broker is not a mover. A HHG broker does not assume responsibility for, and is not authorized to transport a consumer’s household goods.

HHG brokers do not have moving trucks or professional movers. HHG brokers for intrastate moves must be required to use only movers that are registered with FMCSA.”<sup>20</sup> This same guidance should be in place at the intrastate level in Washington.

- App-based micro movers using smartphone app technology are attempting to bring “Uber type technology” to the regulated intrastate moving industry. By using smartphone app technology, they are reaching customers who have a need for transport just as telemarketing, company web sites, other websites like Craigslist, and the traditional Yellow Pages do.

### **Washington Refuse and Recycling Association**

- The process of obtaining a permit from the commission is not cost prohibitive or overly complicated, particularly for a solid waste certificate.
- The commission’s statutes, rules, and practices have ensured high quality service, safety, and public health through the effective regulation of solid waste in Washington for decades and should not be changed.
- It is not clear that the commission can reasonably ensure consumer protection and safety for digital application-based companies, particularly in the collection of solid waste.
- Because DAMMs may also engage in illegal solid waste hauling, WRRRA requests that the commission update the analysis of solid waste issues in Table A, the “Conflict Between Household Goods Legal Framework and the Digital App-based Micro Mover (DAMM) Model” cross-walk, and include statutory references where appropriate.

### **Washington Utilities and Transportation Commission**

- The UTC believes it is possible to ensure that policies and regulations steer innovation and improve mobility and safety without undermining the commission’s obligation to ensure consumer protection and public safety.
- The UTC believes it is imperative to maintain the following key priorities:
  - Customers receive moving estimates and are made aware of any charges above estimated amounts;
  - Customers have recourse for resolving complaints and issues related to charges for service;
  - Companies meet minimum driver fitness and vehicle safety standards;
  - Companies maintain cargo and liability insurance appropriate for vehicle size;
  - There are clearly defined, enforceable regulations for all household goods moving companies regardless of size and use of digital technology; and
  - Regulatory fees must adequately fund the cost of any additional digital application-based company regulation and enforcement activities.

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<sup>20</sup> See <https://www.fmcsa.dot.gov/protect-your-move/movers-vs-brokers>.

## **VI. RECOMMENDATIONS**

The proviso directed the UTC “to convene a task force to make recommendations and report to the legislature regarding the most effective method of regulation of digital application-based micro-movers and the small goods movers that utilize their digital application.”

In order to meet the legislature’s request, the commission supported the creation and work of the task force, provided detailed analysis, facilitated meetings and discussions, and conducted extensive research related to household goods carriers, digital app-based companies that transport household goods, disruptive technologies, and existing regulatory frameworks for similar industries. While this work informed the task force members, the discussion was at times limited by the ongoing litigation between a member of the task force, Dolly, Inc., and the commission. The ongoing legal proceedings involving Dolly limited the task force’s discussion of relevant issues and contributed to the lack of a clear problem statement to guide the work of the task force towards developing a set of recommendations.

The task force could only agree on the fundamental necessity of the UTC continuing to enforce existing household goods and solid waste laws related to safety, insurance requirements, and consumer protection for anyone advertising or entering into agreements to move household goods within the state of Washington, while working with the industry to ensure there are no artificial barriers to entry in the commission’s existing processes.

Due to the lack of consensus among the task force, this report contains no formal recommendations for statutory changes related to DAMM regulation.

Further, as evidenced by the commission’s relevant proceedings, the UTC believes that the current regulatory framework is adequate to ensure consumer protection and safety for household goods movers, whether they utilize new technology, such as a digital application, to reach customers, or rely on more traditional modes of advertising and customer outreach such as a phone book or newspaper.

## VII. APPENDIX

# APPENDIX

## Task Force Crosswalk Analysis

### **DIGITAL APPLICATION BASED MICRO-MOVER TASK FORCE:**

#### *CROSSWALK ANALYSIS OF DIGITAL-APP BASED MICRO-MOVERS AND EXISTING HOUSEHOLD GOODS MOVERS REGULATORY STRUCTURE, POLICIES AND PRECEDENT*

**Issue:** “Crosswalk” of Regulatory Oversight of Household Goods Movers

**Focus Area(s):** Task force requested the UTC to produce an overview of concerns by digital app-based micro-movers and the existing regulations covering household goods movers, including provisions from the Labor and Industries, the Office of the Insurance Commissioner and the Employment Security Department.

### **BACKGROUND**

The Washington Utilities and Transportation Commission (UTC) is directed, under ESB 6032 Supplemental Operating Appropriations Section 141 (6), to convene a task force to make recommendations and report to the legislature regarding the most effective method of regulation of digital application-based micro-movers that utilize digital applications by December 15, 2018. The first task force meeting agenda and presentation was constructed to give an overview to those in attendance the steps that led to the passage of the proviso in ESB 6032. Included in that overview was:

- The request by the Dolly company to initiate a rulemaking;
- The UTC’s focus during the legislature of ensuring consumer protection, safety and the ability to enforce any legislation that was passed;
- The UTC’s existing authority over household goods movers;
- Active concurrent state workgroups that have overlapping issues (autonomous vehicles, Transportation Network Companies, Taxi and For-Hire, and Independent Contractor);
- The timeline of the report due to the legislature; and
- The proposed report outline.

The discussions that took place during the first meeting led the group to the question of whether or not existing state law was inadequate in the regulation of intrastate household goods movers that utilize emerging technology to transport household goods by motor vehicle for compensation or who advertise, solicits, offers, or enters into an agreement to transport household goods. The UTC was asked to develop, if possible, a problem statement pertaining to the issue and provide the task force with an overview of concerns that digital app-based micro moving companies have expressed with the existing regulatory framework and their business models.

In response to the petitions of task force participants, the UTC conducted an analysis of known issues that digital app-based micro movers have expressed, covering: a) process to receive a permit; b) enforcement and oversight of consumer protection and safety; and c) the legislature's direction to the UTC under RCW 81.80.010(5), incorporated by UTC rules through (WAC) 480-15-020, requiring that a company must have a permit from the UTC if it transports, advertises, solicits, offers, or enters into an agreement to transport household goods for compensation, by motor vehicle over public roads, between two points within the state of Washington. The results of that initial analysis are represented in the table (A) Conflict Between Household Goods Legal Framework and the Digital App-based Micro Mover (DAMM) Model. Further regulatory overview and analysis is provided, without the benefit of the DAMM business model in table (B).<sup>21</sup>

## **PURPOSE**

The “crosswalk” Conflict Between Household Goods Legal Framework and the Digital App-based Micro Mover (DAMM) Model table is organized in conflict order and by issue topic.

- The first column is for issue reference during discussion.
- The second column summarizes the concerns noted by digital app-based micro movers or small goods movers.
- The third column identifies the existing regulatory structure in place (a summary combining RCW, WAC and federal code).
- The fourth column identifies the RCW's WAC's that pertain to the requirement/topic for household goods movers outlined by the UTC or another state or federal agency. If it is applicable to multiple agencies or regulatory bodies, then it will be noted.
- The fifth column identifies the WAC's that pertain to the requirement/topic for household goods movers outlined by the UTC or another state or federal agency. If it is applicable to multiple agencies or regulatory bodies, then it will be noted.
- The sixth column identifies the DAMM position and concerns (statements supporting the business model).
- The seventh column contains precedent, summary explanations and other references or notes pertaining to the issue.

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<sup>21</sup> DAMM business model was developed using submitted documents, testimony and available data. In the absence of business model concepts, the regulatory structure is presented independently.

**Table (A) - Conflict Between Household Goods Legal Framework and the DAMM Model**

	Digital App-based Micro Mover (DAMM) Model	Existing Regulatory Structure	Revised Code of Washington (RCW)	Washington Administrative Code (WAC)	Digital App-based Micro Movers (DAMM) Position/Concerns	Reference
<b>SCOPE OF HOUSEHOLD GOODS CARRIER</b>	<p>According to DAMMs they are not a Transportation Network Company (TNC), but portions of their operations are similar. DAMMs contract with independent contractors to arrange transportation services for customers who request household and non-household goods to be moved.</p> <p>DAMMs believe they engage in work that does not compete with traditional household goods movers, but through independent contractors perform services that are covered by common carriers, household goods carriers, solid waste companies and non-regulated services. Generally, local moves of just a few items that will fit into a consumer sized pickup truck, that happen within 24 hours of a customer request, and cost less than \$100.</p>	<p>A company must have a permit from the UTC if it transports, advertises, solicits, offers, or enters into an agreement to transport household goods for compensation, by motor vehicle over public roads, between two points within the state of Washington. The UTC defines household goods as “the personal effects and property used, or to be used, in a residence” in the context of transportation from one residence to another, or to a storage facility. General Commodities Carriers are defined as transporting all types of goods or property, <b>excluding</b> residential household goods. The Motor Carrier rules under WAC 480-14 also do not apply to</p>	<p><i>RCW 81.80.010(5), "Household goods carrier" means a person who transports for compensation, by motor vehicle within this state, or who advertises, solicits, offers, or enters into an agreement to transport household goods as defined by the commission."</i></p> <p><i>RCW 81.04.010(11), Definition of common carrier</i></p> <p><i>RCW 81.80.070(1), Common carriers, contract carriers, and temporary carriers—Permit required.</i></p> <p><i>RCW 81.04.010(16) (16) "Public service company" includes every common carrier.</i></p>	<p><i>WAC 480-15-020, Carrier or household goods carrier: A person who transports for compensation, by motor vehicle within this state, or who advertises, solicits, offers, or enters into an agreement to transport household goods.</i></p>	<p>DAMMs are an app-based software company that provide a technology platform that connects movers with customers requesting household goods moves.</p> <p>DAMMs only advertise household goods moves and never perform any moves itself.</p> <p>DAMMs use “helpers” or independent contractors to conduct the moves.</p>	<p>DAMMs typically meet the statutory definition of “household goods carrier” because they <b>advertise, solicits, and offers to transport for compensation</b>, by motor carrier, household goods in the state of Washington.</p> <p>Household goods carriers, freight carriers, and solid waste collection companies are common carriers.</p> <p>No motor freight common carrier may operate for the transportation of property for compensation in Washington without first obtaining a permit from the Commission.</p>

		common carrier brokers.				
PERMITS AND INDEPENDENT CONTRACTORS	DAMMs believe the household goods permit is not applicable or appropriate because they do not conduct any moves, have no physical contact with the customer or any customer belongings, and do not own vehicles.	<p>Assuming an applicant meets the minimum standards for a permit, there is no barrier to entry, “(3) <i>The commission must issue a permit or permit extension to any qualified applicant.</i>” However, it prescribes penalties for violations of the statute, “(4) <i>Any person who engages in business as a household goods carrier in violation of subsection (1) of this section is subject to a penalty of up to five thousand dollars per violation.</i>”</p> <p>Through 81.80.075, the legislature also provided a litmus test, that if met, classified the company as a household goods mover</p>	<i>RCW 81.80.075 (1) No person shall engage in business as a household goods carrier without first obtaining a household goods carrier permit from the commission.</i>	<p><i>480-15-180 Carrier operations that require a household goods permit.</i></p> <p><i>480-15-181 Operations that do not require a household goods permit.</i></p> <p><i>480-15-185 Types of household goods permits.</i></p> <p><i>480-15-186 Application required for new authority to operate as a household goods carrier.</i></p> <p><i>480-15-190 Service territory.</i></p> <p><i>480-15-302 Provisional authority.</i></p> <p><i>480-15-305 Permanent authority.</i></p> <p><i>480-15-410 Voluntary suspension of a permit.</i></p> <p><i>480-15-420 Voluntary cancellation of a permit.</i></p> <p><i>480-15-430 Involuntary suspension of a permit.</i></p> <p><i>480-15-450 Involuntary cancellation of a permit.</i></p>	<p>Existing Rules and Laws Have Failed to Keep up with Technology and the changing marketplace.</p> <p>DAMMs are not a household goods carrier because they do not perform moves, they arrange them.</p>	<p>Consistent with RCW 81.80.010(5), <b>a person need not physically transport household goods to be classified as a household goods carrier.</b></p> <p><b>UTC Docket TC-143691</b>, the UTC addressed the use of independent contractors to provide regulated service. The company entered agreements with its customers to provide auto transportation service, then subcontracted that service out. The company collected payment from its customers, then remitted a portion to the contracted driver. Company unsuccessfully argued that the service was not subject to regulation because it was provided in vehicles the company did not own that were driven by drivers the company did not employ.</p> <p><b>UTC Dockets TV-171212, TV-170747, and TV-161308</b>, classified as household goods carriers “persons alleged to be household goods movers subject to the Commission’s jurisdiction by virtue of their activities that typically involve the use of third party independent contractors to physically move a customer’s household goods from one location to another.”</p> <p><b>UTC Docket TE-151667</b>, a proceeding that classified Blessed Limousine as a charter and excursion service carrier after deciding that the company’s</p>

				<i>480-15-480 Annual reports and regulatory fees.</i>		practice of subcontracting party bus services violated the public service laws
CONSUMER PROTECTION AND SAFETY	<p>DAMMs typically enter into agreements to transport household goods for compensation in the state of Washington and collect the money from the customer with a percentage going towards the independent contractor.</p> <p>DAMMs do not typically provide the customer with any specific information about the mover that will actually move the customer's household goods.</p> <p>DAMMs do not typically provide the customer with a choice of movers.</p>	<p>Through 81.80.075 and the statutory definition in RCW 81.80.010(5), the legislature provided a litmus test, that if met, classified the company as a household goods mover.</p> <p>RCW 81.04.110 authorizes the Commission to file a complaint on its own motion setting forth any act or omission by a company that violates any law, or any order or rule of the Commission</p>	<p><i>RCW 81.80.075 (1) No person shall engage in business as a household goods carrier without first obtaining a household goods carrier permit from the commission.</i></p> <p><i>RCW 81.80.130 To the extent allowed under 49 U.S.C. Sec. 14501, the commission shall: Supervise and regulate every common carrier in this state;</i></p> <p><i>RCW 81.80.010(5), "Household goods carrier" means a person who transports for compensation, by motor vehicle within this state, or who advertises, solicits, offers, or enters into an agreement to transport household goods as defined by the commission."</i></p>	<p><i>Under WAC 480-15-710, the bill of lading establishes a contract between the customer and the carrier. The carrier must issue a bill of lading for every move. The carrier must keep a copy of the bill of lading for 3 years after the move is completed. WAC 480-15-020 defines carrier or household goods carrier as a person who transports for compensation, by motor vehicle within this state, or who advertises, solicits, offers, or enters into an agreement to transport household goods. 480-15-800, Customer complaints and claims. 480-15-810, Resolving customer complaints or claims. 480-15-830, Complaint and claim records retention.</i></p>	<p>Consumer prices would increase because consumers would be forced to hire a larger, more costly and unnecessary form of transportation for their small goods moves.</p> <p>The current regulations are not adequate to safeguard consumers who seek convenient transportation options for small household moves on short notice.</p>	<p>The UTC's primary mission in regulating household goods carriers is to protect consumers and the public. As recently as 2009, the legislature acted to strengthen the household goods laws, consumer protection and safety by allowing advertising to be used as proof of operations to reduce illegal movers and remove unsafe vehicles and drivers from the road.</p> <p>DAMMs typically enter into agreements to transport household goods for compensation in the state of Washington and collect the money from the customer and circumvent UTC consumer protection requirements.</p>

				480-15-890, Commission-referred complaints.		
COMMON CARRIER	The DAMM model covers a wide variety of services offered under on demand micro-moving including small office moves, retail store deliveries, partial apartment moves, Craigslist pickups, donations to local charities and more.	As it relates to transportation, the legislature tasked the UTC with regulating in the public interest, as provided in the public service laws, all persons engaging in the transportation of persons or property within this state for compensation.” Through 81.80.075, the legislature also provided a litmus test that, if met, classified the company as a household goods mover.	<i>RCW 80.01.040(1), Regulate in the public interest ... all persons engaging in the transportation of persons or property within this state for compensation. RCW 81.04.010(11), "Common carrier" includes all... motor freight carriers, auto transportation companies, charter party carriers and excursion service carriers, private nonprofit transportation providers, solid waste collection companies, household goods carriers... RCW 81.80.070(1),(3), Before a permit is issued, the commission shall require the applicant to establish safety fitness and proof of minimum financial responsibility RCW 81.80.355, Any person not holding a [common carrier]</i>		Different services than traditional household goods carriers who only conduct household goods moves with professional movers using commercial equipment at a greater cost.	

			<i>permit [may not advertise] the transportation of property for compensation.</i>			
<b>BROKER CONCEPT</b>	DAMMs are “household goods brokers” rather than a household goods carriers operating as a middleman between movers and consumers.	<p>The Commission does not recognize, define, or classify “household goods broker” as a person who is subject or not subject to regulation as a household goods carrier. The Commission determines whether a person is a household goods carrier based on the person’s actions, not how the entity characterizes its operations.</p> <p>The activity described as “household goods broker” falls under the existing statutory definition of a household goods carrier.</p>	<i>RCW 81.80.010(3) "Common carrier" and "contract carrier" includes persons engaged in the business of providing, contracting for, or undertaking to provide transportation of property for compensation over the public highways of the state of Washington as brokers or forwarders.</i>	<i>WAC 480-12-100 (2) A "broker" is a person engaged in the business of providing, contracting for or undertaking to arrange for, transportation of property by two or more common carriers.</i>	There should be a distinction made between a household goods carrier and a DAMM/household goods broker.	<p><b>UTC Docket TV-170999</b>, the UTC held that under the existing statutory definition of household good carrier the DAMM and the mover that utilizes their platform would need to be permitted.</p> <p><b>UTC Docket TV-150185</b>, the UTC held that “information providers” are not common carrier “brokers.” Common carrier brokers arrange for the transportation of property by two or more carriers. Information providers assist clients to retain a single household goods carrier. Rather than managing the logistics, rates, terms, or conditions of their client’s move, they facilitate the exchange of information between regulated household goods carriers and potential customers to better enable consumers to make their own service arrangements. Consumers contract with, and remit payment to, the household goods carrier, not the information service provider.</p>

<b>INSURANCE AND BACKGROUND</b>	<p>DAMMs have stated that they carry liability insurance but believe the requirement by the UTC to carry cargo insurance is inappropriate.</p> <p>Similarly, DAMMs do not employ the independent contractors and believe a background check should not be required.</p>	<p>To receive permanent authority a household goods carrier must complete the household goods training, obtain a passing safety rating, passed fitness standards; obtained appropriate Insurance; and conducted criminal background checks.</p> <p>Fitness Standards Include - Mandatory criminal background checks for owners/operators; No criminal convictions for certain crimes; Must hold a valid identification card or current driver's license; Must provide evidence of enrollment in a drug and alcohol testing program (CDL Drivers-driving a truck over 26,000 pounds); Must own or lease proper equipment; Employer must complete criminal background checks on all prospective employees before you hire them (this applies to any</p>	<p>RCW 80.01.040 General powers and duties of commission</p> <p>81.01.010 Adoption of provisions of chapter 80.01 RCW.</p> <p>81.80.130 Regulatory power over common carriers.</p>	<p>WAC 480-15-550 (1) Carriers must have cargo insurance coverage at the levels prescribed in subsection (2) of this section to protect all household goods transported under the permit. (2) The minimum limits of required cargo insurance are: (a) Ten thousand dollars for household goods transported in motor vehicles with a gross vehicle weight rating of less than ten thousand pounds. (b) Twenty thousand dollars for household goods transported in motor vehicles with a gross vehicle weight rating of ten thousand pounds or more.</p> <p>WAC 480-15-555 Criminal background checks for prospective employees.</p>	<p>DAMMs have stated that WAC 480-15-550 requires carriers to obtain cargo insurance protecting items they transport. Even though the items are covered under the DAMMs liability insurance, because the company does not transport items, they should not be required to obtain cargo insurance.</p> <p>DAMMs have stated that WAC 480-15-555 requiring background checks for all employees does not fit its model. DAMMs only employs software programmers, marketing professionals and office workers. The background check is intended to cover motor carrier employees, specifically drivers. The company's helpers are all independent</p>	<p>See Insurance Table below.</p>

		employee that has contact with the customer's goods); Must receive a satisfactory safety rating from the UTC; Must settle any unresolved consumer complaints; Must attend and stay for the entire UTC household goods training.			contractors and the company should not be required to conduct criminal background checks.	
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<b>Insurance Requirements</b>		
<b>Gross Vehicle Weight</b>		<b>Minimum Limits</b>
10,000 pounds or more	non-hazardous	\$750,000 Combined Single Limit (CSL)
	hazardous substances	\$5 million CSL for bulk hazardous substances, explosives, poison gas, compressed gas & radioactive materials. \$1 million for other hazardous waste and materials.
	Cargo filing for Household Goods Carriers	\$10,000 if vehicle is under 10,000 GVWR \$20,000 if vehicle is over 10,001 GVWR
Under 10,000 pounds	non-hazardous	\$300,000 CSL
	hazardous substances	\$5 million

SOLID WASTE	<p>People are asking for an inexpensive way to get an old couch or junk to the dump.</p>	<p>Household goods carriers, freight carriers, and solid waste collection companies are common carriers. RCW 81.04.010(11). For the purposes of Title 81 RCW, every common carrier is a public service company, RCW 81.04.010, and therefore subject to Commission regulation. See RCW 80.01.040(2); RCW 81.01.010</p> <p>The state defines a solid waste company in statute as every person owning, controlling, operating, or managing vehicles used in the business of transporting solid waste for collection or disposal, or both, for compensation, except septic tank pumpers, over any public highway in this state as a 'common carrier' or as a 'contract carrier.'</p> <p>"Operating for the hauling of solid waste for compensation includes advertising, soliciting, offering, or entering into an</p>	<p>81.77.020 No person, his or her lessees, receivers, or trustees, shall engage in the business of operating as a solid waste collection company in this state, except in accordance with the provisions of this chapter.</p> <p><i>RCW 81.04.010(11) (11)</i></p> <p><i>RCW 81.77.010 (1) "Motor vehicle" means any truck, trailer, semitrailer, tractor, or any self-propelled or motor driven vehicle used upon any public highway of this state for the purpose of transporting solid waste, for the collection or disposal, or both, of solid waste</i></p> <p><i>RCW 81.77.010(3) (3) "Common carrier" means any person who collects and transports solid waste for disposal by motor vehicle for compensation</i></p>	<p>Chapter 480-70 WAC</p> <p>SOLID WASTE AND/OR REFUSE COLLECTION COMPANIES</p> <p>PART I—GENERAL ADMINISTRATIVE RULES</p> <p>PART II—ACCOUNTING REQUIREMENTS, REPORTING REQUIREMENTS AND REGULATORY FEES</p> <p>PART III—CERTIFICATES</p> <p>PART IV—INSURANCE</p> <p>PART V—EQUIPMENT AND DRIVERS</p> <p>PART VI—COMPLIANCE</p> <p>PART VII—TARIFFS, RATES, AND RATE FILINGS</p> <p>PART VIII—CONSUMER RULES</p> <p>PART IX—BIOMEDICAL WASTE RULES</p> <p>PART X—HAZARDOUS WASTE RULES</p>		
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		<p>agreement to provide” such services.</p> <p>No solid waste collection company may operate for the hauling of solid waste for compensation without first obtaining a certificate of public convenience and necessity from the Commission.</p>	<p><i>RCW 70.95.030(22) (22)</i>  <i>"Solid waste" or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.</i></p> <p><i>RCW 81.77.040</i>  <i>Certificate of convenience and necessity required—</i>  <i>Issuance—</i>  <i>Transferability—Solid waste categories.</i>  <i>Operating for the hauling of solid waste includes advertising or entering into agreement to transport solid waste.</i></p>	<p>PART XI—ADOPTION  BY REFERENCE</p>		
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**Table (B) – Regulatory Overview of Household Goods Movers**

	<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
<b>SCOPE AND BREADTH OF UTC AUTHORITY</b>	<p><i>RCW 80.01.040 (1) Exercise all the powers and perform all the duties prescribed by this title and by Title 81 RCW, or by any other law.</i></p> <p><i>(2) Regulate in the public interest, as provided by the public service laws, all persons engaging in the transportation of persons or property within this state for compensation.</i></p>	<p><i>WAC 480-12-100</i></p> <p><i>Forwarders and brokers.</i></p> <p><i>WAC 480-12-375</i></p> <p><i>Bond required—Broker—Forwarder.</i></p>	<p>The Commission does not recognize, define, or classify “household goods broker” as a person who is subject or not subject to regulation as a household goods carrier. The Commission determines whether a person is a household goods carrier based on the person’s actions, not how the entity characterizes its operations.</p>
	<p><i>RCW 81.04.010(11)</i></p> <p><i>(11) "Common carrier" includes all railroads, railroad companies, street railroads, street railroad companies, commercial ferries, motor freight carriers, auto transportation companies, charter party carriers and excursion service carriers, private nonprofit transportation providers, solid waste collection companies, household goods carriers, hazardous liquid pipeline companies, and every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court whatsoever, and every city or town, owning, operating, managing, or controlling any such agency for public use in the conveyance of persons or property for hire within this state.</i></p>		

<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference	
	<p><i>RCW 81.80.070(1)</i></p> <p><i>Common carriers, contract carriers, and temporary carriers—Permit required.</i></p> <p><i>(1) A common carrier, contract carrier, or temporary carrier shall not operate for the transportation of property for compensation in this state without first obtaining from the commission a permit for such operation.</i></p> <p><i>(2) The commission shall issue a common carrier permit to any qualified applicant if it is found the applicant is fit, willing, and able to perform the service and conform to the provisions of this chapter and the rules and regulations of the commission.</i></p> <p><i>(3) Before a permit is issued, the commission shall require the applicant to establish safety fitness and proof of minimum financial responsibility as provided in this chapter.</i></p>	<p><i>Chapter 480-14 WAC</i></p> <p><i>MOTOR CARRIERS, EXCLUDING HOUSEHOLD GOODS CARRIERS AND COMMON CARRIER BROKERS</i></p> <p><i>WAC 480-14-010</i></p> <p><i>Purpose and application.</i></p> <p><i>These rules require intrastate common carriers of property by motor vehicle to obtain and maintain intrastate common carrier operating permits, to file reports and pay regulatory fees, and to file and maintain evidence of required insurance coverage. The rules also require interstate carriers to secure appropriate authority from the United States Department of Transportation (USDOT) and to register with the commission and pay fees as required by the Uniform Carrier Registration (UCR) program or any successor program.</i></p>	

<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
<p><i>RCW 81.77.010 (1) "Motor vehicle" means any truck, trailer, semitrailer, tractor, or any self-propelled or motor driven vehicle used upon any public highway of this state for the purpose of transporting solid waste, for the collection or disposal, or both, of solid waste;</i></p>		
<p><i>RCW 81.77.010(3) (3) "Common carrier" means any person who collects and transports solid waste for disposal by motor vehicle for compensation, whether over regular or irregular routes, or by regular or irregular schedules;</i></p>		
<p><i>RCW 81.77.010(9) (9) "Solid waste" means the same as defined under RCW 70.95.030, except for the purposes of this chapter solid waste does not include recyclable materials except for source separated recyclable materials collected from residences; and</i></p> <p><i>RCW 81.77.040 Certificate of convenience and necessity required—Issuance—Transferability—Solid waste categories.</i></p>	<p><i>Chapter 480-70 WAC</i></p> <p><i>SOLID WASTE AND/OR REFUSE COLLECTION COMPANIES</i></p>	

<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
<i>RCW 70.95.030(22) (22) "Solid waste" or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.</i>		
<i>RCW 81.04.010(16) (16) "Public service company" includes every common carrier.</i>		

<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
<p><i>RCW 80.01.040 The utilities and transportation commission shall:</i></p> <p><i>(1) Exercise all the powers and perform all the duties prescribed by this title and by Title 81 RCW, or by any other law.</i></p> <p><i>(2) Regulate in the public interest, as provided by the public service laws, all persons engaging in the transportation of persons or property within this state for compensation.</i></p> <p><i>(3) Regulate in the public interest, as provided by the public service laws, the rates, services, facilities, and practices of all persons engaging within this state in the business of supplying any utility service or commodity to the public for compensation.</i></p> <p><i>(4) Make rules and regulations necessary to carry out its other powers and duties</i></p>		<p>UTC Docket TC-143691, the UTC specifically addressed the use of independent contractors to provide regulated service. In that case, an auto transportation carrier entered into agreements with its customers to provide auto transportation service, then subcontracted that service to limousine operators. The company collected payment from its customers, then remitted a portion of that payment to the contracted driver. In that case, the company unsuccessfully argued that the service was not subject to Commission regulation because it was provided in vehicles the company did not own and were driven by drivers the company did not employ.</p> <p>UTC Dockets TV-171212, TV-170747, and TV-161308 classified as household goods carriers “persons alleged to be household goods movers subject to the Commission’s jurisdiction by virtue of their activities that typically involve the use of third party independent contractors to physically move a customer’s household goods from one location to another.”</p>

	<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
<b>ADMINISTRATIVE, TARIFF, AND RATE REQUIREMENTS TO TRANSPORT HOUSEHOLD GOODS, FOR HIRE, WITHIN THE STATE OF WASHINGTON</b>	<p><i>RCW 80.01.040, General powers and duties of commission</i></p> <p><i>80.04.160, Rules and regulations</i></p> <p><i>81.04.250, Determination of rates</i></p> <p><i>81.28.040, Tariff schedules to be filed with commission—Public schedules—Commission's powers as to schedules</i></p> <p><i>81.80.120, Classification of carriers</i></p> <p><i>81.80.130, Regulatory power over common carriers</i></p> <p><i>81.80.290, Rules and regulations</i></p>	<p><i>480-15-490 Tariff and rates, general.</i></p> <p><i>480-15-500 Tariff maintenance and fees.</i></p> <p><i>480-15-510 Changing commission-published tariffs.</i></p> <p><i>480-15-520 Individual carrier tariffs.</i></p>	<p>Applications must describe the ownership, financial condition, equipment to be used, and physical property of the applicant, the territory or route or routes in or over which the applicant proposes to operate, and the nature of the transportation to be engaged in.</p>
<b>INSURANCE</b>	<p><i>RCW 80.01.040, 81.04.160, and 81.80.130</i></p> <p><i>81.01.010, Adoption of provisions of chapter 80.01 RCW.</i></p> <p><i>The provisions of chapter 80.01 RCW, as now or hereafter amended, apply to Title 81 RCW as fully as though they were set forth herein.</i></p>	<p><i>480-15-530 Public liability and property damage insurance.</i></p> <p><i>480-15-550 Cargo insurance.</i></p>	<p>All companies who apply for a UTC permit, certificate, or registration must file and maintain evidence of public liability and property damage insurance.</p> <p>The standard proof of insurance form is commonly called a "Form E" and is issued by your insurance company. The formal name is the "Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance".</p>

	<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
	<b>EQUIPMENT AND SAFETY REQUIREMENTS</b>	<i>RCW 80.01.040, 81.01.010, 81.04.160, and 81.80.130</i>	<p><i>480-15-555 Criminal background checks for prospective employees.</i></p> <p><i>480-15-560 Equipment safety requirements.</i></p> <p><i>Part 4.2 - Drivers' Requirements</i></p> <p><i>480-15-570 Driver safety requirements.</i></p> <p><i>Part 4.3 - Equipment Leasing</i></p> <p><i>480-15-590 Leasing vehicles.</i></p>

HOUSEHOLD GOODS CARRIER RESPONSIBILITY TO CONSUMER AND DETERMINATION CRITERIA	Revised Code of Washington (RCW)	Washington Administrative Code (WAC)	Reference
		<p><i>RCW 81.80.075(4).</i></p> <p><i>RCW 81.80.075(4) Any person who engages in business as a household goods carrier in violation of subsection (1) of this section is subject to a penalty of up to five thousand dollars per violation.</i></p> <p><i>(a) If the basis for the violation is advertising, each advertisement reproduced, broadcast, or displayed via a particular medium constitutes a separate violation.</i></p> <p><i>RCW 81.80.355 - No person may display on any building, vehicle, billboard, or in any manner, any advertisement of, or by circular, letter, newspaper, magazine, poster, card, or telephone directory, advertise the transportation of property for compensation without first having obtained a permit authorizing him or her to operate as a common carrier.</i></p> <p><i>RCW 81.04.110 authorizes the Commission to file a complaint on its own motion setting forth any act or omission by a company that violates any law, or any order or rule of the Commission</i></p>	<p><i>480-15-610 Advertising.</i></p> <p><i>480-15-620 Information household goods carriers must provide to customers.</i></p> <p><i>480-15-630 Estimates.</i></p> <p><i>480-15-660 Supplemental estimates.</i></p> <p><i>480-15-710 Bill of lading.</i></p> <p><i>480-15-750 Weight.</i></p> <p><i>Part 5.5 - Complaint and Claim Procedures</i></p> <p><i>480-15-800 Customer complaints and claims.</i></p> <p><i>480-15-810 Resolving customer complaints or claims.</i></p> <p><i>480-15-830 Complaint and claim records retention.</i></p> <p><i>480-15-890 Commission-referred complaints.</i></p>

	<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
	<i>RCW 81.80.075 Household goods carriers—Permit required, penalty, cease and desist orders.</i>		the contract terms and conditions. <b>What the carrier is liable for and what they are not liable for.</b>
	<i>RCW 81.80.130 To the extent allowed under 49 U.S.C. Sec. 14501, the commission shall: Supervise and regulate every common carrier in this state; make, fix, alter, and amend, just, fair, reasonable, minimum, maximum, or minimum and maximum, rates, charges, classifications, rules, and regulations for all common carriers; regulate the accounts, service, and safety of operations thereof; require the filing of reports and other data thereby; and supervise and regulate all common carriers in all other matters affecting their relationship with competing carriers of every kind and the shipping and general public. The commission may by order approve rates filed by common carriers in respect to certain designated commodities and services when, in the opinion of the commission, it is impractical for the commission to make, fix, or prescribe rates covering the commodities and services.</i>		Complaints and Claims Overview:  The customer has nine months to file the damage claim.  The household goods carrier must provide the customer with all information and forms to file a complaint or claim.  --A household goods mover must acknowledge receipt of complaints and claims within ten business days in writing.  --A household goods mover must advise the customer of the UTC and all records relating to complaints and claims must be kept for three years.  Complaints:  If a customer has a complaint against a household goods mover and the UTC passes a complaint to the company, the carrier must:  Provide commission staff with an initial response within FIVE business days from the date commission staff referred the complaint to the carrier. The carrier's response must include

<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
		<p>the results of its investigation into the informal complaint and any documents related to the move requested by staff.</p> <p>They must respond to commission staff inquiries requesting additional information or documentation relevant to the informal complaint within FIVE business days.</p>
		<p>A household goods carrier may provide an estimate based on a customer-completed web site calculation if the estimate contains all of the elements required by the tariff and the customer electronically “signs” it. The household goods mover still must provide the customer with a current copy of the “Consumer Guide to Moving in Washington State.”</p> <p>WAC 480-15-610 outlines advertising guidelines. Advertising includes, in part, emails, newspapers, flyers, business cards, posters, signs, online, and social media. which means social media</p> <p>Advertising must include the household goods movers permit number, Name or trade name as recorded at the UTC, Business physical address and phone number</p>

	<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
			<p>A household goods mover is not in compliance if their advertising includes false, misleading or deceptive information.</p> <p>Advertise services, rates, or charges that are in conflict with Tariff 15-C</p>
<b>INTERSTATE OPERATIONS AND ADOPTION BY REFERENCE</b>	.	<p><i>480-15-900 Requirements for interstate operations</i></p> <p><i>480-15-999 Adoption by reference.</i></p>	
<b>LABOR AND INDUSTRIES (L&amp;I)</b>	<p><i>(L&amp;I) RCW 51.04.020</i></p> <p><i>Powers and duties.</i></p> <p><i>The director shall:</i></p> <p><i>(1) Establish and adopt rules governing the administration of this title;</i></p> <p><i>(2) Ascertain and establish the amounts to be paid into and out of the accident fund;</i></p> <p><i>(3) Regulate the proof of accident and extent thereof, the proof of death and the proof of relationship and the extent of dependency;</i></p> <p><i>(4) Supervise the medical, surgical, and hospital treatment to the intent that it</i></p>		

<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
<p><i>may be in all cases efficient and up to the recognized standard of modern surgery;</i></p> <p><i>(5) Issue proper receipts for moneys received and certificates for benefits accrued or accruing;</i></p> <p><i>(6) Investigate the cause of all serious injuries and report to the governor from time to time any violations or laxity in performance of protective statutes or regulations coming under the observation of the department;</i></p> <p><i>(7) Compile statistics which will afford reliable information upon which to base operations of all divisions under the department;</i></p> <p><i>(8) Make an annual report to the governor of the workings of the department;</i></p> <p><i>(9) Be empowered to enter into agreements with the appropriate agencies of other states relating to conflicts of jurisdiction where the contract of employment is in one state and injuries are received in the other state, and insofar as permitted by the Constitution and laws of the United States, to enter into similar agreements with the provinces of Canada; and</i></p> <p><i>(10) Designate a medical director who is licensed under chapter 18.57 or 18.71 RCW.</i></p>		

<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference	
	<p><i>(L&amp;I) RCW 51.16.035</i></p> <p><i>Classifications—Premiums—Rules—Workers' compensation advisory committee recommendations.</i></p>	<p><i>(L&amp;I) WAC 296-17A-6907</i></p> <p><i>Classification 6907.</i></p> <p><i>6907-01 Household furnishings moving and storage applies to establishments engaged in interstate and/or intrastate moving and/or storage of household furnishings. Work contemplated by this classification includes packing and unpacking, loading and unloading of household goods, transportation from one residence to another, and temporary storage of household goods in a warehouse. This classification includes the moving van drivers, packing personnel, laborers who assist in the loading and unloading operations, warehouse employees and truck mechanics.</i></p> <p><i>This classification excludes:</i></p> <ul style="list-style-type: none"> <li><i>• Intrastate and/or interstate delivery of nonhousehold furnishings which are to be reported separately in either classification 1101 or 1102, as applicable;</i></li> <li><i>• Nonhousehold furnishing warehouses, which are to be reported separately in the appropriate warehouse classification; and</i></li> </ul>	<p>Household goods moving and storage, risk classification 6907, applies to all businesses that perform moving and storage activities in Washington.</p> <p>Micro movers are not treated differently by L&amp;I.</p>

Revised Code of Washington (RCW)	Washington Administrative Code (WAC)	Reference
	<ul style="list-style-type: none"> <li>• <i>Firms providing moving and assembly of office furniture and modular work stations, which are reported in classification 2002-13.</i></li> </ul> <p><i>Special note: Establishments subject to this classification are to report actual hours worked for each driver. However, the hours are to be capped at 520 hours per driver per quarter. Detailed information can be found in the general audit rule covering the trucking industry and in RCW 51.12.095.</i></p>	
	<p>WAC 296-17-31004 Coverage requirements.</p> <p><b>(1) I own a business. Am I required to have workers' compensation insurance coverage for my employees?</b> Nearly every employer doing business in the state of Washington is required to have workers' compensation insurance for his/her employees. Washington law (RCW <a href="#">51.12.020</a>) does exempt certain types of employment from coverage. If you employ only individuals who are excluded from mandatory workers' compensation insurance coverage, you are not required to have workers' compensation insurance coverage.</p>	<p>Digital app based businesses are considered to be employers by L&amp;I. The individuals they hire may be independent contractors, but they are considered covered workers. This business model has been determined to be operating as an employer and must report workers for workers' comp insurance.</p>

<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
<p>licensing under chapter <a href="#">19.28</a> RCW: PROVIDED, That a person is not a worker for the purpose of this title, with respect to his or her activities attendant to operating a truck which he or she owns, and which is leased to a common or contract carrier.</p>	<p><b>(2) I hire contractors to perform work for me. Do I need to be concerned about premiums on their work?</b> Yes. There are two ways you may be liable for premiums on the work they do.</p> <p>First, they may be "workers" for whom you are required to report and pay premiums. The law defines worker to include both your employees and independent contractors you hire, when the essence of the contract is personal labor. See RCW <a href="#">51.08.070</a>, <a href="#">51.08.180</a>, <a href="#">51.08.181</a>, and <a href="#">51.08.195</a> for more guidance about when independent contractors will be considered workers.</p> <p>Second, the Industrial Insurance Act imposes premium liability on anyone who contracts with another to have work performed. Even if the contractor you hire is not your worker (for example, if the contractor uses one or more workers on the job), you could be liable for their premiums if they fail to pay.</p>	<p>Individuals that perform moving services are considered to be covered workers.</p> <p>If employees are used to perform moving services; that entity is providing the labor of others and is subject to the prime contractor liability laws and rules.</p>

Revised Code of Washington (RCW)	Washington Administrative Code (WAC)	Reference
<p>(L&amp;I) RCW 51.08.195</p> <p>"Employer" and "worker"—Additional exception.</p> <p>As an exception to the definition of "employer" under RCW <a href="#">51.08.070</a> and the definition of "worker" under RCW <a href="#">51.08.180</a>, services performed by an individual for remuneration shall not constitute employment subject to this title if it is shown that:</p> <p>(1) The individual has been and will continue to be free from control or direction over the performance of the service, both under the contract of service and in fact; and</p> <p>(2) The service is either outside the usual course of business for which the service is performed, or the service is performed outside all of the places of business of the enterprise for which the service is performed, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed; and</p> <p>(3) The individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or the individual has a principal place of business for the business the individual is conducting that is eligible</p>	<p>WAC 296-17-31005</p> <p>Employer/employee relationship.</p> <p><b>How do I determine if I am an employer?</b> Chances are that if you employ one or more individuals to work for you, you are probably an employer. RCW <a href="#">51.08.070</a>, <a href="#">51.08.180</a> and <a href="#">51.08.195</a> all define the employer/employee relationship. These laws present the conditions that must exist before an exception or an independent contractor status can be recognized. You may find information online at <a href="http://www.lni.wa.gov">www.lni.wa.gov</a> or you may call one of our offices and a representative will help you determine if you are an employer. We are listed in the government pages of your local telephone directory, or you can call our underwriting section at 360-902-4817 for assistance.</p>	<p>Digital app based businesses are considered to be employers by L&amp;I. The individuals they hire may be independent contractors, but they are considered covered workers. This business model has been determined to be operating as an employer and must report workers for workers' comp insurance.</p>

<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
<p>for a business deduction for federal income tax purposes; and</p> <p>(4) On the effective date of the contract of service, the individual is responsible for filing at the next applicable filing period, both under the contract of service and in fact, a schedule of expenses with the internal revenue service for the type of business the individual is conducting; and</p> <p>(5) On the effective date of the contract of service, or within a reasonable period after the effective date of the contract, the individual has established an account with the department of revenue, and other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington; and</p> <p>(6) On the effective date of the contract of service, the individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business which the individual is conducting</p>		

	<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
	<p>(L&amp;I) RCW 51.12.010</p> <p>Employments included—Declaration of policy.</p> <p style="padding-left: 40px;">There is a hazard in all employment and it is the purpose of this title to embrace all employments which are within the legislative jurisdiction of the state.</p> <p style="padding-left: 40px;">This title shall be liberally construed for the purpose of reducing to a minimum the suffering and economic loss arising from injuries and/or death occurring in the course of employment</p> <p>(L&amp;I) RCW 51.04.060</p> <p>No evasion of benefits or burdens.</p> <p style="padding-left: 40px;">No employer or worker shall exempt himself or herself from the burden or waive the benefits of this title by any contract, agreement, rule or regulation, and any such contract, agreement, rule or regulation shall be pro tanto void.</p>		<p>All employment is covered by workers' comp, unless it is specifically excluded by statute.</p> <p>There is no exclusion for digital app based employment under Title 51.</p>
	<p>(L&amp;I) RCW 51.12.090</p> <p>Intrastate and interstate commerce.</p> <p style="padding-left: 40px;">The provisions of this title shall apply to employers and workers (other than railways and their workers) engaged in intrastate and also in interstate or</p>	<p>(L&amp;I) WAC 296-17-35203</p> <p>Special reporting instruction.</p> <p style="padding-left: 40px;"><b>3) Special trucking industry rules.</b> The following subsection shall</p>	<p>There are specific rules that apply to interstate and intrastate commerce. The only exclusion from coverage is for an individual that owns and operates a truck that is leased to a common carrier. This applies to local and long-haul operations.</p>

<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
<p>foreign commerce, for whom a rule of liability or method of compensation now exists under or may hereafter be established by the congress of the United States, only to the extent that the payroll of such workers may and shall be clearly separable and distinguishable from the payroll of workers engaged in interstate or foreign commerce: PROVIDED, That as to workers whose payroll is not so clearly separable and distinguishable the employer shall in all cases be liable in damages for injuries to the same extent and under the same circumstances as is specified in the case of railroads in the first proviso of RCW <a href="#">51.12.080</a>: PROVIDED FURTHER, That nothing in this title shall be construed to exclude goods or materials and/or workers brought into this state for the purpose of engaging in work.</p>	<p>apply to all trucking industry employers as applicable.</p> <p>(a) Insurance liability. Every trucking industry employer operating as an intrastate carrier or a combined intrastate and interstate carrier must insure their workers' compensation insurance liability through the Washington state fund or be self-insured with the state of Washington.</p> <p>Washington employers operating exclusively in interstate or foreign commerce or any combination of interstate and foreign commerce must insure their workers' compensation insurance liability for their Washington employees with the Washington state fund, be self-insured with the state of Washington, or provide workers' compensation insurance for their Washington employees under the laws of another state when such other state law provides for such coverage.</p> <p>Interstate or foreign commerce trucking employers who insure their workers' compensation insurance liability under the laws of another state must provide the department with copies of their</p>	

<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
	<p>current policy and applicable endorsements upon request.</p> <p>Employers who elect to insure their workers' compensation insurance liability under the laws of another state and who fail to provide updated policy information when requested to do so will be declared an unregistered employer and subject to all the penalties contained in Title <a href="#">51</a> RCW.</p> <p>(b) Reporting. Trucking industry employers insuring their workers' compensation insurance liability with the Washington state fund shall keep and preserve all original time records/books including supporting information from drivers' logs for a period of three calendar years plus three months.</p> <p>Employers are to report actual hours worked, including time spent loading and unloading trucks, for each driver in their employ. For purposes of this section, actual hours worked does not include time spent during lunch or rest periods or overnight lodging.</p> <p>Failure of employers to keep accurate records of actual hours worked by their employees will result in the department estimating</p>	

<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
	<p>work hours by dividing gross payroll wages by the state minimum wage for each worker for whom records were not kept. However, in no case will the estimated or actual hours to be reported exceed five hundred twenty hours per calendar quarter for each worker.</p> <p>(c) Exclusions. Trucking industry employers meeting all of the following conditions are exempted from mandatory coverage.</p> <p>(i) Must be engaged exclusively in interstate or foreign commerce.</p> <p>(ii) Must have elected to cover their Washington workers on a voluntary basis under the Washington state fund and must have elected such coverage in writing on forms provided by the department.</p> <p>(iii) After having elected coverage, withdrew such coverage in writing to the department on or before January 2, 1987.</p> <p>If all the conditions set forth in (i), (ii), and (iii) of this subsection have not been met, employers must insure their workers' compensation insurance liability with the</p>	

<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
	<p>Washington state fund or under the laws of another state.</p> <p>(d) Definitions. For purposes of interpretation of RCW <a href="#">51.12.095(1)</a> and administration of this section, the following terms shall have the meanings given below:</p> <p>(i) "Agents" means individuals hired to perform services for the interstate or foreign commerce carrier that are intended to be carried out by the individual and not contracted out to others but does not include owner operators as defined in RCW <a href="#">51.12.095(1)</a>.</p> <p>(ii) "Contacts" means locations at which freight, merchandise, or goods are picked up or dropped off within the boundaries of this state.</p> <p>(iii) "Doing business" means having any terminals, agents or contacts within the boundaries of this state.</p> <p>(iv) "Employees" means the same as the term "worker" as contained in RCW <a href="#">51.08.180</a>.</p> <p>(v) "Terminals" means a physical location wherein the business activities (operations) of the trucking company are conducted on</p>	

<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference	
	<p>a routine basis. Terminals will generally include loading or shipping docks, warehouse space, dispatch offices and may also include administrative offices.</p> <p>(vi) "Washington" shall be used to limit the scope of the term "employees." When used with the term "employees" it will require the following test for benefit purposes (all conditions must be met).</p> <ul style="list-style-type: none"> <li>• The individual must be hired in Washington or must have been transferred to Washington; and</li> <li>• The individual must perform some work in Washington (i.e., driving, loading, or unloading trucks).</li> </ul>		
	<p><i>The Washington Industrial Safety and Health Act (WISHA), Chapter 49.17 RCW, requires employers to provide safe and healthy working conditions, as far as reasonably possible, for workers in this state.</i></p> <p><i>L&amp;I enforces this law through its Division of Occupational Safety and Health (DOSH), which: Inspects workplaces to identify hazards and improve safety. Investigates work-related fatalities, hospitalizations, and complaints of unsafe workplaces.</i></p>	<p><i>(L&amp;I)Chapter 296-865 WAC</i></p> <p><i>Safety Standards for Motor Vehicles</i></p> <p><i>(L&amp;I) WAC 296-865-099 Definitions.</i></p> <p><i>Motor vehicle. Any vehicle, machine, tractor, trailer, or any combination of these that is driven by mechanical power and used on the roadways in the transportation of people or materials.</i></p> <p><i>Semitruck. A truck and trailer combination designed and used</i></p>	

<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
<p><i>This law sets minimum requirements that employers must follow and protects your right to report workplace safety and health concerns. These requirements include establishing policies that are effective in practice and providing safeguards and safety devices to make your workplace safe. You must follow the rules and policies your employer sets in place and use any required personal protective equipment (PPE) provided to you</i></p>	<p><i>primarily for carrying material and property.</i></p> <p><i>Trailer. A non-motorized vehicle designed to be towed by a motor vehicle.</i></p> <p><i>Truck. Any motor vehicle designed, used, or maintained primarily for the transportation of property.</i></p>	
	<p><i>(L&amp;I) WAC 296-865-200 All motor vehicles.</i></p> <p><i>Your responsibility: To make sure all motor vehicle occupants are safe and equipment is safe to use. You must meet the requirements... In this section</i></p> <p><i>Motor vehicle operation WAC 296-865-20005</i></p> <p><i>Transportation of passengers WAC 296-865-20010</i></p> <p><i>Motor vehicle equipment WAC 296-865-20015</i></p> <p><i>WAC 296-865-20005 Motor vehicle operation.</i></p> <p><i>(1) You must allow only drivers who are qualified to operate a motor vehicle.</i></p>	

<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
	<p><i>(2) You must allow only drivers who have a current motor vehicle operator's license to operate motor vehicles on public roadways.</i></p> <p><i>(3) You must make sure employees follow any site-specific rules and posted speed limits when operating motor vehicles on roadways privately owned and maintained.</i></p>	
	<p><i>(L&amp;I) WAC 296-865-20015 Motor vehicle equipment.</i></p> <p><i>(1) You must make sure all equipment operated on public roadways meets all of the state of Washington motor vehicle laws.</i></p> <p><i>(2) You must make sure all parts and accessories are safe to use.</i></p> <p><i>(3) You must make sure all motor vehicle equipment meets the specification or requirements in Table 1.</i></p> <p><i>Table 1 Motor Vehicle Equipment If you have this type of equipment:</i></p> <p><i>Then make sure the equipment is:</i></p> <p><i>Seats</i></p> <p><i>1. Properly secured; and</i></p>	

<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
	<p><i>2. Available for every employee in the vehicle.</i></p> <p><i>Tires Safe to use</i></p> <p><i>Exhaust systems</i></p> <p><i>1. Designed to eliminate the exposure of exhaust gases and fumes; and</i></p> <p><i>2. Installed and maintained in proper condition.</i></p> <p><i>Fire extinguishers</i></p> <p><i>Provided when the vehicle is:</i></p> <p><i>1. At least 26,000 pounds (manufacturer’s gross weight); and</i></p> <p><i>2. Only used in the state of Washington.</i></p>	
<p><i>(L&amp;I) Wage and Hour Laws</i></p> <p><i>Regular wages</i></p> <p><i>You must be paid at least minimum wage for all hours worked (tips cannot be counted as part of the minimum wage). Workers who are 14 or 15 may be paid 85% of the adult minimum wage. Also, you must be paid on set paydays (at least once a month) and receive a statement of your wages.</i></p> <p><i>Agricultural workers: exception to minimum wage Minimum wage does not apply for any individual if all the following</i></p>		<p>Independent contractors that meet specific criteria are not covered by the wage and hour laws. The Economic Realities Test is used to determine if an independent contractor is excluded from Wage and Hour laws. The criteria is similar to, but not the same as, RCW 51.08.195 (the “six part test”).</p> <p>Digital app employers are not treated differently than any other employers. If they hire staff to complete services,</p>

	<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
	<p><i>requirements are met: The individual is employed as a handharvest laborer; and The individual is paid on a piece rate basis in an operation where such payment is customary; and The individual is a permanent resident and commutes daily from his or her own residence to the farm; and Wage and Hour Laws The individual has been employed in agriculture less than 13 weeks in the preceding calendar year. For example, someone (an adult or minor) who works less than 13 weeks per year harvesting berries during berry season, but does not normally work in an agricultural job at any other time, does not have to be paid minimum wage.</i></p>		they are considered employers and must follow the laws and rules established.
SECRETARY OF STATE (CORPORATE REGISTRATIONS);	<p><i>Title 25 RCW PARTNERSHIPS</i></p> <p><i>25.05, Revised uniform partnership act.</i></p> <p><i>25.10, Uniform limited partnership act.</i></p> <p><i>25.12, Limited partnerships existing prior to June 6, 1945.</i></p> <p><i>25.15, Limited liability companies.</i></p>		

	<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
DEPARTMENT OF TRANSPORTATION	Chapter 46.44 RCW SIZE, WEIGHT, LOAD	Chapter 468-38 WAC VEHICLE SIZE AND WEIGHT— HIGHWAY RESTRICTIONS— EQUIPMENT	49 CFR Parts 300-399  Title 23 - Code of Federal Regulations (and Non-regulatory Supplements)
DEPARTMENT OF REVENUE AND INTERNAL REVENUE SERVICE (TAXES);	RCW 82.32.030, Registration certificates— Threshold levels—Central registration system		
DEPARTMENT OF LICENSING (VEHICLE AND DRIVERS LICENSES, BUSINESS LICENSING, UNIFIED BUSINESS IDENTIFIER (UBI NUMBER), FUEL PERMITS, FUEL TAX;	82.38, Fuel tax act.  82.41, Multistate motor fuel tax agreement.  82.44, Motor vehicle excise tax.	Title 308 WAC  DEPARTMENT OF LICENSING  (Formerly: Motor Vehicles, Dept. of and Licenses, Dept. of)	

<p>Employment Security – PAID FAMILY AND MEDICAL LEAVE</p>	<p>RCW 50.12.070; RCW 50.24.010; Chapter 192-300 WAC; WAC 192-310-010; WAC 192-350-040; WAC 192-350-050</p> <p>RCW 50.04.140</p> <p>Employment—Exception tests.</p> <p>Services performed by an individual RCW 50A.04.010; 50A.04.080; 50A.04.115; 50A.04.120; 50.04.600</p> <p><b><u>RCW 50A.04.010: Definitions.</u></b></p> <p>RCW 50A.04.010(4)(a) "Employee" means an individual who is in the employment of an employer.</p> <p>(b) "Employee" does not include employees of the United States of America.</p> <p>RCW 50A.04.010(6)(a) "Employer" means:</p> <p>(i) Any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, limited liability company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the legal representative of a deceased person, having any person in employment or, having become an employer, has not ceased to be an employer as provided in this chapter; (ii) the state, state institutions, and state agencies; and (iii) any unit of local government including, but</p>	<p>WAC 192-310-010</p> <p>What reports are required from an employer?</p> <p>(1) Business license application. Every person or unit with one or more individuals performing services for it in the state of Washington must file a business license application with the department of revenue.</p> <p>(2) Employer registration:</p> <p>(a) Every employer shall register with the department and obtain an employment security account number. Registration shall include the names, Social Security numbers, mailing addresses, telephone numbers, and the effective dates in that role of natural persons who are spouses or domestic partners of owners and owners, partners, members, or corporate officers of an employer. Registration of corporations shall include the percentage of stock ownership for each corporate officer, delineated as zero percent, less than ten percent, or ten percent or more, and the family relationship of corporate officers to other corporate officers who own ten percent or more. Every employer shall report changes in owners, partners, members, corporate officers, and percentage of ownership of the outstanding stock of the corporation by corporate</p>	
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	<p><i>not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision.</i></p> <p><i>(b) "Employer" does not include the United States of America.</i></p> <p><i>RCW 50A.04.010(7)(a) "Employment" means personal service, of whatever nature, unlimited by the relationship of master and servant as known to the common law or any other legal relationship performed for wages or under any contract calling for the performance of personal services, written or oral, express or implied. The term "employment" includes an individual's entire service performed within or without or both within and without this state, if:</i></p> <p><i>(i) The service is localized in this state; or</i></p> <p><i>(ii) The service is not localized in any state, but some of the service is performed in this state; and</i></p> <p><i>(A) The base of operations of the employee is in the state, or if there is no base of operations, then the place from which such service is directed or controlled is in this state; or</i></p> <p><i>(B) The base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.</i></p>	<p><i>officers. The report of changes is due each calendar quarter at the same time that the quarterly tax and wage report is due.</i></p> <p><i>(b) A nonprofit corporation that is an employer shall register with the department, but is not required to provide names, Social Security numbers, mailing addresses, or telephone numbers for corporate officers who receive no compensation from the nonprofit corporation with respect to their services for the nonprofit corporation.</i></p> <p><i>(c) An employer who omits required information when registering with the department, or fails to provide the department with the required information within thirty days of registration, must pay a penalty of twenty-five dollars for each violation unless the penalty is waived by the department.</i></p> <p><i>(d) For purposes of this subsection:</i></p> <p><i>(i) "Owner" means the owner of an employer operated as a sole proprietorship;</i></p> <p><i>(ii) "Partner" means a general partner of an employer organized as a partnership, other than limited partners of a limited partnership who are not also general partners of the partnership;</i></p>	
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	<p><i>(b) "Employment" does not include:</i></p> <p><i>(i) Self-employed individuals;</i></p> <p><i>(ii) Services for remuneration when it is shown to the satisfaction of the commissioner that:</i></p> <p><i>(A)(I) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his or her contract of service and in fact; and</i></p> <p><i>(II) Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed; and</i></p> <p><i>(III) Such individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service; or</i></p> <p><i>(B) As a separate alternative:</i></p> <p><i>(I) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his or her contract of service and in fact; and</i></p> <p><i>(II) Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed, or the individual is</i></p>	<p><i>(iii) "Member" means a member of an employer organized as a limited liability company, other than members who, pursuant to applicable law or the terms of the limited liability company's operating agreement or other governing documents, have no right to participate in the management of the limited liability company; and</i></p> <p><i>(iv) "Corporate officer" means an officer described in the bylaws or appointed or elected by the board of directors in accordance with the bylaws or articles or certificates of incorporation of an employer organized as a for-profit or nonprofit corporation.</i></p> <p><i>(3) Quarterly tax and wage reports:</i></p> <p><i>(a) Tax report. Each calendar quarter, every employer must file a tax report with the commissioner. The report must list the total wages paid to every employee during that quarter.</i></p> <p><i>(b) Report of employees' wages. Each calendar quarter, every employer must file a report of employees' wages with the commissioner. This report must list each employee by full name, Social Security number, and total hours worked and wages paid during that quarter.</i></p>	
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	<p><i>responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed; and</i></p> <p><i>(III) Such individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or such individual has a principal place of business for the work the individual is conducting that is eligible for a business deduction for federal income tax purposes; and</i></p> <p><i>(IV) On the effective date of the contract of service, such individual is responsible for filing at the next applicable filing period, both under the contract of service and in fact, a schedule of expenses with the internal revenue service for the type of business the individual is conducting; and</i></p> <p><i>(V) On the effective date of the contract of service, or within a reasonable period after the effective date of the contract, such individual has established an account with the department of revenue, and other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington; and</i></p> <p><i>(VI) On the effective date of the contract of service, such individual is maintaining a separate set of books or records that</i></p>	<p><i>(i) Social Security numbers are required for persons working in the United States;</i></p> <p><i>(ii) If an individual has a Social Security card, he or she must present the card to the employer at the time of hire or shortly after that. This does not apply to agricultural workers who, under federal rules, may show their Social Security card on the first day they are paid;</i></p> <p><i>(iii) If the individual does not have a Social Security card, Internal Revenue Service rules allow an employer to hire the individual with the clear understanding that the individual will apply for a Social Security number within seven calendar days of starting work for the employer. The individual must give the employer a document showing he or she has applied for a Social Security card. When the card is received, the individual must give the employer a copy of the card itself. An employer should keep copies of the document(s) for his or her records;</i></p> <p><i>(iv) If the employee does not show his or her Social Security card or application for a card within seven days and the employer continues to employ the worker, the employer does not meet the reporting requirements of this section. The department will not allow waiver of</i></p>	
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	<p><i>reflect all items of income and expenses of the business which the individual is conducting.; or</i></p> <p><i>(iii) Services that require registration under chapter 18.27 RCW or licensing under chapter 19.28 RCW rendered by an individual when:</i></p> <p><i>(A) The individual has been and will continue to be free from control or direction over the performance of the service, both under the contract of service and in fact;</i></p> <p><i>(B) The service is either outside the usual course of business for which the service is performed, or the service is performed outside of all the places of business of the enterprise for which the service is performed, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed;</i></p> <p><i>(C) The individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or the individual has a principal place of business for the business the individual is conducting that is eligible for a business deduction for federal income tax purposes, other than that furnished by the employer for which the business has contracted to furnish services;</i></p> <p><i>(D) On the effective date of the contract of service, the individual is responsible for</i></p>	<p><i>the incomplete report penalty (see WAC 192-310-030); and</i></p> <p><i>(v) For the purposes of this section, if an employee does not have a Social Security number but does have an individual taxpayer identification number (ITIN), the ITIN qualifies as a Social Security number. If the employee later obtains a Social Security number, the employer should use the Social Security number when filing the report of employees' wages.</i></p> <p><i>(c) Format. Employers must file the quarterly tax and wage reports in one of the following formats:</i></p> <p><i>(i) Electronically, using the current version of employer account management services (EAMS), UIFastTax, UIWebTax, or ICESA Washington; or</i></p> <p><i>(ii) Paper forms supplied by the department (or an approved version of those forms). Agency forms include "drop-out ink" that cannot be copied. Therefore, photocopies are considered incorrectly formatted reports and forms.</i></p> <p><i>(d) Due dates. The quarterly tax and wage reports are due by the WAC 192-510-040; 192-510-050; 192-510-060; 192-510-070; 192-510-080; 192-530-020</i></p>	
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	<p><i>filing at the next applicable filing period, both under the contract of service and in fact, a schedule of expenses with the internal revenue service for the type of business the individual is conducting;</i></p> <p><i>(E) On the effective date of the contract of service, or within a reasonable period after the effective date of the contract, the individual has an active and valid certificate of registration with the department of revenue, and an active and valid account with any other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington;</i></p> <p><i>(F) On the effective date of the contract of service, the individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business that the individual is conducting; and</i></p> <p><i>(G) On the effective date of the contract of service, the individual has a valid contractor registration pursuant to chapter 18.27 RCW or an electrical contractor license pursuant to chapter 19.28 RCW.</i></p> <p><b><u>RCW 50A.04.080: Employer requirements.</u></b></p> <p><i>(1) In the form and at the times specified in this chapter and by the commissioner, an</i></p>	<p><b><u>WAC 192-510-040: How does an employer's size affect liability for premiums and eligibility for small business assistance grants?</u></b></p> <p><i>(1) To assess premiums and determine eligibility for small business assistance grants, the department must determine the size of each applicable employer. The department will only count the number of in-state employees as defined in RCW 50A.04.010(4) when calculating employer size.</i></p> <p><i>(2) If the department determines that the employer's status has changed as it relates to premium liability, the department will notify the employer. This notification will include the following information:</i></p> <p><i>(a) If the employer was determined to have fifty or more employees for the preceding calendar year, and the employer is then determined to have fewer than fifty employees for the subsequent calendar year, the employer will not be required to pay the employer portion of the premium for the next calendar year; or</i></p> <p><i>(b) If the employer was determined to have fewer than fifty employees for the preceding calendar year, and the employer is then determined to have fifty or more employees for the</i></p>	
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	<p>employer shall make reports, furnish information, and collect and remit premiums as required by this chapter to the department. If the employer is a temporary help company that provides employees on a temporary basis to its customers, the temporary help company is considered the employer for purposes of this section.</p> <p>(2)(a) An employer must keep at the employer's place of business a record of employment, for a period of six years, from which the information needed by the department for purposes of this chapter may be obtained. This record shall at all times be open to the inspection of the commissioner.</p> <p>(b) Information obtained under this chapter from employer records is confidential and not open to public inspection, other than to public employees in the performance of their official duties. However, an interested party shall be supplied with information from employer records to the extent necessary for the proper presentation of the case in question. An employer may authorize inspection of the employer's records by written consent.</p> <p>(3) The requirements relating to the collection of family and medical leave premiums are as provided in this chapter. Before issuing a warning letter, the department shall enforce the collection of</p>	<p>subsequent calendar year, the employer will be required to pay the employer portion of the premium for the next calendar year.</p> <p>Example: On September 30, 2018, a business is determined to have had 53 employees on average during the previous four completed quarters, which covers July 1, 2017, through June 30, 2018. The employer is liable for the employer portion of premiums for 2019. On September 30, 2019, the business is determined to have had 48 employees on average during the previous four completed quarters, which covers July 1, 2018, through June 30, 2019. The employer is no longer liable for the employer share of premiums for 2020.</p> <p><b><u>WAC 192-510-050: How will the department assess the size of new employers?</u></b></p> <p>An employer that has not been in business in Washington long enough to report four calendar quarters by September 30th will have its size calculated after the second quarter of reporting is due by averaging the number of employees reported over the quarters for which reporting exists. Premium assessment based on this determination will begin on this reporting date. This size determination remains in effect until</p>	
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	<p>premiums through conference and conciliation. These requirements apply to:</p> <p>(a) An employer that fails under this chapter to make the required reports, or fails to remit the full amount of the premiums when due;</p> <p>(b) An employer that willfully makes a false statement or misrepresentation regarding a material fact, or willfully fails to report a material fact, to avoid making the required reports or remitting the full amount of the premiums when due under this chapter;</p> <p>(c) A successor in the manner specified in RCW 50A.04.125; and</p> <p>(d) An officer, member, or owner having control or supervision of payment and/or reporting of family and medical leave premiums, or who is charged with the responsibility for the filing of returns, in the manner specified in RCW 50A.04.090.</p> <p>(4) Notwithstanding subsection (3) of this section, appeals are governed by RCW 50A.04.500.</p> <p><b><u>RCW 50A.04.115: Premiums—Solvency surcharge—Limitation on local regulation.</u></b></p> <p>(1)(a) Beginning January 1, 2019, the department shall assess for each individual in employment with an employer and for each individual electing coverage a premium based on the amount of the</p>	<p>the following September 30th pursuant to RCW 50A.04.115 (8)(c).</p> <p><b><u>WAC 192-510-060: When are employer premium payments due?</u></b></p> <p>(1) Premiums must be paid quarterly. Each payment must include the premiums owed on all wages subject to premiums during that calendar quarter. Payments are due to the department by the last day of the month following the end of the calendar quarter for which premiums are being paid.</p> <p>(2) Payments made by mail are considered paid on the postmarked date. If the last day of the month falls on a Saturday, Sunday, or a legal holiday, the premium payment must be postmarked by the next business day.</p> <p>(3) Premium payments are due within ten calendar days when a business is dissolved or the account is closed by the department. Premiums not paid timely are delinquent and subject to interest under RCW 50A.04.140.</p> <p><b><u>WAC 192-510-070: What is "localization" and how does it affect conditional waivers?</u></b></p>	
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	<p><i>individual's wages subject to subsection (4) of this section.</i></p> <p><i>(b) The premium rate for family leave benefits shall be equal to one-third of the total premium rate.</i></p> <p><i>(c) The premium rate for medical leave benefits shall be equal to two-thirds of the total premium rate.</i></p> <p><i>(2) For calendar year 2022 and thereafter, the commissioner shall determine the percentage of paid claims related to family leave benefits and the percentage of paid claims related to medical leave benefits and adjust the premium rates set in subsection (1)(b) and (c) of this section by the proportional share of paid claims.</i></p> <p><i>(3)(a) Beginning January 1, 2019, and ending December 31, 2020, the total premium rate shall be four-tenths of one percent of the individual's wages subject to subsection (4) of this section.</i></p> <p><i>(b) For family leave premiums, an employer may deduct from the wages of each employee up to the full amount of the premium required.</i></p> <p><i>(c) For medical leave premiums, an employer may deduct from the wages of each employee up to forty-five percent of the full amount of the premium required.</i></p> <p><i>(d) An employer may elect to pay all or any portion of the employee's share of the premium for family leave or medical leave benefits, or both.</i></p>	<p><i>(1) An employee's work is subject to all reporting requirements and premiums when the work is localized in Washington. An employee's work is considered localized in Washington when:</i></p> <p><i>(a) All of the employee's work is performed entirely within Washington; or</i></p> <p><i>(b) Most of the employee's services are performed within Washington, but some of the work which is temporary or transitory in nature, or consists of isolated transactions is performed outside of Washington.</i></p> <p><i>(2) Services that are not localized in Washington will be subject to reporting requirements and premiums when the services are not localized in any state, but some of the services are performed in Washington, and:</i></p> <p><i>(a) The base of operations of the employee is in Washington, or if there is no base of operations, then the place from which such services is directed or controlled is in Washington; or</i></p> <p><i>(b) The base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in Washington.</i></p>	
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	<p><i>(4) The commissioner must annually set a maximum limit on the amount of wages that is subject to a premium assessment under this section that is equal to the maximum wages subject to taxation for social security as determined by the social security administration.</i></p> <p><i>(5)(a) Employers with fewer than fifty employees employed in the state are not required to pay the employer portion of premiums for family and medical leave.</i></p> <p><i>(b) If an employer with fewer than fifty employees elects to pay the premiums, the employer is then eligible for assistance under RCW 50A.04.230.</i></p> <p><i>(6) For calendar year 2021 and thereafter, the total premium rate shall be based on the family and medical leave insurance account balance ratio as of September 30th of the previous year. The commissioner shall calculate the account balance ratio by dividing the balance of the family and medical leave insurance account by total covered wages paid by employers and those electing coverage. The division shall be carried to the fourth decimal place with the remaining fraction disregarded unless it amounts to five hundred-thousandths or more, in which case the fourth decimal place shall be rounded to the next higher digit. If the account balance ratio is:</i></p>	<p><i>Example: A storm hits Washington. An employer in Oregon dispatches an employee who typically lives and works in Oregon to help with repair work. The employee works temporarily in Washington for the employer for one week, and then returns to work in Oregon for the employer. The employment is localized within Oregon and is not subject to premium assessment.</i></p> <p><b><u>WAC 192-510-080: What are the requirements to be eligible for a conditional premium waiver?</u></b></p> <p><i>(1) An employer and employee may be eligible for a conditional waiver of premium payments by satisfying the requirements of RCW 50A.04.120.</i></p> <p><i>(2) A conditional premium waiver is not required for work that is not subject to premiums under WAC 192-510-070 or fails to meet the definition of employment in RCW 50A.04.010 (7)(a).</i></p> <p><i>(3) Any conditional premium waiver request must be submitted to the department online or in another format approved by the department.</i></p> <p><i>(4) As a condition to granting the conditional premium waiver, the employer must file quarterly reports</i></p>	
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	<p>(a) Zero to nine hundredths of one percent, the premium is six tenths of one percent of the individual's wages;</p> <p>(b) One tenth of one percent to nineteen hundredths of one percent, the premium is five tenths of one percent of the individual's wages;</p> <p>(c) Two tenths of one percent to twenty-nine hundredths of one percent, the premium is four tenths of one percent of the individual's wages;</p> <p>(d) Three tenths of one percent to thirty-nine hundredths of one percent, the premium is three tenths of one percent of the individual's wages;</p> <p>(e) Four tenths of one percent to forty-nine hundredths of one percent, the premium is two tenths of one percent of the individual's wages; or</p> <p>(f) Five tenths of one percent or greater, the premium is one tenth of one percent of the individual's wages.</p> <p>(7) Beginning January 1, 2021, if the account balance ratio calculated in subsection (6) of this section is below five hundredths of one percent, the commissioner must assess a solvency surcharge at the lowest rate necessary to provide revenue to pay for the administrative and benefit costs of family and medical leave, for the calendar year, as determined by the commissioner. The solvency surcharge shall be at least one-tenth of one percent and no more than six-</p>	<p>to verify that employees still qualify for the conditional premium waiver.</p> <p>(5) Once an employee works eight hundred twenty hours in a qualifying period localized in Washington for an employer, the conditional premium waiver expires.</p> <p>(6) The department may require the employer to submit additional documentation as necessary.</p> <p>(7) If the employee exceeds eight hundred twenty hours or more in a qualifying period, the conditional waiver expires and the employer and employee will be responsible for their shares of all premiums that would have been paid during the qualifying period in which the employee exceeded eight hundred twenty hours had the waiver not been granted. Upon payment of the missed premiums, the employee will be credited for the hours worked and will be eligible for benefits under this chapter as if the premiums were originally paid.</p> <p>Example: A storm hits Washington. An employer in Oregon hires a new employee who lives in Oregon to help with repair work. The employee only works in Washington for the employer for one week and is then laid off. The employer could request a</p>	
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	<p>tenths of one percent and be added to the total premium rate for family and medical leave benefits.</p> <p>(8)(a) The employer must collect from the employees the premiums and any surcharges provided under this section through payroll deductions and remit the amounts collected to the department.</p> <p>(b) In collecting employee premiums through payroll deductions, the employer shall act as the agent of the employees and shall remit the amounts to the department as required by this chapter.</p> <p>(c) On September 30th of each year, the department shall average the number of employees reported by an employer over the last four completed calendar quarters to determine the size of the employer for the next calendar year for the purposes of this section and RCW 50A.04.230.</p> <p>(9) Premiums shall be collected in the manner and at such intervals as provided in this chapter and directed by the department.</p> <p>(10) Premiums collected under this section are placed in trust for the employees and employers that the program is intended to assist.</p> <p>(11) A city, code city, town, county, or political subdivision may not enact a charter, ordinance, regulation, rule, or resolution:</p>	<p>conditional premium waiver for this employee.</p> <p><b><u>WAC 192-530-020: Voluntary plans—Employer plan requirements.</u></b></p> <p>(1) An employer's voluntary plan must:</p> <p>(a) Allow the employee to take at least the same duration of leave from work as the state plan;</p> <p>(b) Pay at least equivalent total monetary benefits as the state plan;</p> <p>(c) Not withhold an amount from an employee's wages that is higher than what would be withheld under the state plan for the same period of time; and</p> <p>(d) Offer leave for at least the same reasons as the state plan.</p> <p>(2) An employer with an approved voluntary plan may, at its discretion, use an accelerated payment schedule. The total monetary benefit must be equal to or greater than what the employee would have received under the state plan.</p> <p>(a) If the employer chooses to use an accelerated payment schedule, the total monetary benefit must be paid to the employee over a length of time that is no less than one-half of what</p>	
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	<p><i>(a) Creating a paid family or medical leave insurance program that alters or amends the requirements of this chapter for any private employer;</i></p> <p><i>(b) Providing for local enforcement of the provisions of this chapter; or</i></p> <p><i>(c) Requiring private employers to supplement duration of leave or amount of wage replacement benefits provided under this chapter.</i></p> <p><b><u>RCW 50A.04.120: Out-of-state employees—Premium waiver.</u></b></p> <p><i>(1) An employer may file an application with the department for a conditional waiver for the payment of family and medical leave premiums, assessed under RCW 50A.04.115, for any employee who is:</i></p> <p><i>(a) Physically based outside of the state;</i></p> <p><i>(b) Employed in the state on a limited or temporary work schedule; and</i></p> <p><i>(c) Not expected to be employed in the state for eight hundred twenty hours or more in a qualifying period.</i></p> <p><i>(2) The department must approve an application that has been signed by both the employee and employer verifying their belief that the conditions in this subsection will be met during the qualifying period.</i></p> <p><i>(3) If the employee exceeds the eight hundred twenty hours or more in a</i></p>	<p><i>would have been provided under the state plan.</i></p> <p><i>(b) Whether an employer elects to use an accelerated payment schedule has no impact on the length of job-protected leave to which the employee is entitled.</i></p> <p><i>(c) If an employer chooses to utilize an accelerated payment schedule and the employee agrees to return to work earlier than required, the employer cannot require the employee to repay benefits as a result of returning to work earlier.</i></p> <p><i>(3) Employees covered by a voluntary plan are entitled to at least the same length of job-protected leave to which they would be entitled under the state plan. An employer and an employee may enter into an agreement wherein the employee returns to work at an earlier date.</i></p> <p><i>Example: An employee elects to take 12 weeks of leave for the birth of a child. The weekly benefit amount is \$750. The employer decides to pay the employee \$1,500 weekly over 6 weeks. In addition, the employer and the employee agree that the employee will return to work after 6 weeks. In this example, the employee would still have been permitted to take the full 12 weeks of leave if the employee had decided to do so.</i></p>	
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	<p><i>qualifying period, the conditional waiver expires and the employer and employee will be responsible for their shares of all premiums that would have been paid during the qualifying period in which the employee exceeded the eight hundred twenty hours had the waiver not been granted. Upon payment of the missed premiums, the employee will be credited for the hours worked and will be eligible for benefits under this chapter as if the premiums were originally paid.</i></p> <p><b><u>RCW 50A.04.600: Voluntary plans—</u></b> <b><u>Generally.</u></b></p> <p><i>(1) An employer may apply to the commissioner for approval of a voluntary plan for the payment of either family leave benefits or medical leave benefits, or both. The application must be submitted on a form and in the manner as prescribed by the commissioner in rule. The fee for the department's review of each application for approval of a voluntary plan is two hundred fifty dollars.</i></p> <p><i>(2) The benefits payable as indemnification for loss of wages under any voluntary plan must be separately stated and designated separately and distinctly in the plan from other benefits, if any.</i></p> <p><i>(3) Neither an employee nor his or her employer are liable for any premiums for benefits covered by an approved voluntary plan.</i></p>	<p><i>(4) A two hundred fifty dollar fee will be required for every new application or nonstatutorily required amendment filed by an employer seeking approval for a voluntary plan.</i></p> <p><i>(5) If an employer elects to have a voluntary plan for either family leave or medical leave, but not both, the employer is responsible for withholding the employee share of the premium for the portion that is covered by the state plan. The department will post the rates for family and medical leave for the following calendar year to its web site by November 30th each year. The employer is responsible for paying the premiums due to the state plan in accordance with WAC 192-510-060.</i></p>	
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	<p><i>(4) Except as provided in this section, an employee covered by an approved voluntary plan at the commencement of a period of family leave or a medical leave benefit period is not entitled to benefits from the state program. Benefits payable to that employee is the liability of the approved voluntary plan under which the employee was covered at the commencement of the family leave or medical leave benefit period, regardless of any subsequent serious health condition or family leave which may occur during the benefit period. The commissioner must adopt rules to allow benefits or prevent duplication of benefits to employees simultaneously covered by one or more approved voluntary plans and the state program.</i></p> <p><i>(5) The commissioner must approve any voluntary plan as to which the commissioner finds that there is at least one employee in employment and all of the following exist:</i></p> <p><i>(a) The benefits afforded to the employees must be at least equivalent to the benefits the employees are entitled to as part of the state's family and medical leave program, including but not limited to the duration of leave. The employer must offer at least one-half of the length of leave as provided in RCW 50A.04.020(3) with pay and provide a monetary payment in an amount equal to or higher than the total amount of monetary benefits the employee would be entitled to receive as</i></p>		
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	<p><i>part of the state-run program. The employer may offer the same duration of leave and monetary benefits as offered under the state program.</i></p> <p><i>(b) The sick leave an employee is entitled to under RCW 49.46.210 is in addition to the employer's provided benefits and is in addition to any family and medical leave benefits.</i></p> <p><i>(c) The plan is available to all of the eligible employees of the employer employed in this state, including future employees.</i></p> <p><i>(d) The employer has agreed to make the payroll deductions required, if any, and transmit the proceeds to the department for any portions not collected for the voluntary plan.</i></p> <p><i>(e) The plan will be in effect for a period of not less than one year and, thereafter, continuously unless the commissioner finds that the employer has given notice of withdrawal from the plan in a manner specified by the commissioner in rule. The plan may be withdrawn by the employer on the date of any law increasing the benefit amounts or the date of any change in the rate of employee premiums, if notice of the withdrawal from the plan is transmitted to the commissioner not less than thirty days prior to the date of that law or change. If the plan is not withdrawn, it must be amended to conform to provide the increased benefit amount or change in the rate of the</i></p>		
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	<p><i>employee's premium on the date of the increase or change.</i></p> <p><i>(f) The amount of payroll deductions from the wages of an employee in effect for any voluntary plan may not exceed the maximum payroll deduction for that employee as authorized under RCW 50A.04.115. The deductions may not be increased on other than an anniversary of the effective date of the plan, except to the extent that any increase in the deductions from the wages of an employee do not exceed the maximum rate authorized under the state program.</i></p> <p><i>(g) The voluntary plan provides that an employee of an employer with a voluntary plan for either family leave or medical leave, or both, is eligible for the plan benefits if the employee meets the requirements of RCW 50A.04.015 and has worked at least three hundred forty hours for the employer during the twelve months immediately preceding the date leave will commence.</i></p> <p><i>(h) The voluntary plan provides that an employee of an employer with a voluntary plan for either family leave or medical leave, or both, who takes leave under the voluntary plan is entitled to the employment protection provisions contained in RCW 50A.04.025 if the employee has worked for the employer for at least nine months and nine hundred sixty-five hours during the twelve months</i></p>		
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	<p><i>immediately preceding the date leave will commence.</i></p> <p><i>(i) The voluntary plan provides that the employer maintains the employee's existing health benefits as provided under RCW 50A.04.245.</i></p> <p><i>(6)(a) The department must conduct a review of the expenses incurred in association with the administration of the voluntary plans during the first three years after implementation and report its findings to the legislature.</i></p> <p><i>(b) The review must include an analysis of the adequacy of the fee in subsection (1) of this section to cover the department's administrative expenses related to reviewing and approving or denying the applications and administering appeals related to voluntary plans. The review must include an estimate of the next year's projected administrative costs related to the voluntary plans. The legislature shall adjust the fee in subsection (1) of this section as needed to ensure the department's administrative expenses related to the voluntary plans are covered by the fee.</i></p> <p><i>(c) If the current receipts from the fee in subsection (1) of this section are inadequate to cover the department's administrative expenses related to the voluntary plans, the department may use funds from the family and medical leave insurance account under RCW 50A.04.220 to pay for these expenses.</i></p>		
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	<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	Reference
<b>OFFICE OF INSURANCE COMMISSIONER</b>	<p><i>Personal Vehicle Sharing Programs</i></p> <p><i>48.175.005 Definitions.</i></p> <p><i>48.175.010 Requirements of program.</i></p> <p><i>48.175.020 Program's liabilities—Owner's insurance policy.</i></p> <p><i>48.175.030 Private passenger motor vehicle not a commercial or for-hire motor vehicle—Criteria.</i></p> <p><i>48.175.900 Application—2012 c 108.</i></p>		
	<p><i>RCW 48.177, Commercial Transportation Services</i></p> <p><i>48.177.005 Definitions.</i></p> <p><i>48.177.010 Insurance that covers commercial transportation services—Requirements—Terms of coverage.</i></p> <p><i>RCW 48.22.030(13), Underinsured, hit-and-run, phantom vehicle coverage to be provided—Purpose—Definitions—Exceptions—Conditions—Deductibles—Information on motorcycle or motor-driven cycle coverage—Intended victims.</i></p> <p><i>(13) The coverage under this section may be excluded as provided for under RCW 48.177.010(6).</i></p>		

	<p><i>RCW 48.22.085(3), Automobile liability insurance policy—Optional coverage for personal injury protection—Rejection by insured.</i></p> <p><i>(3) The coverage under this section may be excluded as provided for under RCW 48.177.010(6).</i></p> <p><i>RCW 48.22.095, Automobile insurance policies—Minimum personal injury protection coverage.</i></p> <p><i>(2) The coverage under this section may be excluded as provided for under RCW 48.177.010(6).</i></p> <p><i>RCW 51.12.020, Industrial Insurance, Employments Excluded</i></p> <p><i>(14) A driver providing commercial transportation services as defined in RCW 48.177.005. The driver may elect coverage in the manner provided by RCW 51.32.030.</i></p> <p><i>RCW 51.12.185, For hire vehicle owners or lessees—Retrospective rating program.</i></p> <p><i>RCW 46.29.033, MOTOR VEHICLE, FINANCIAL RESPONSIBILITY, Application of chapter to RCW 48.177.010.</i></p>		
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	<i>Revised Code of Washington (RCW)</i>	<i>Washington Administrative Code (WAC)</i>	<i>Reference</i>
	<i>This chapter does not apply to the coverage exclusions under RCW 48.177.010(6).</i>		