

**Date: Tuesday, May 6, 2025**

**TO: All Legislators**

**FROM: Representative Alex Dallman**

**Senator Julian Bradley**

**RE: Co-sponsorship of LRB 0875/1 relating to: Delivery network couriers and transportation network drivers.**

**Deadline: Friday, May 9 at 4:00pm**

Thousands of Wisconsin residents choose to earn supplemental income through platforms like DoorDash, Uber, and Instacart. Today, these app-based drivers not only help move people from home to the airport and other destinations, but also deliver groceries or takeout from your favorite restaurant directly to your door.

Wisconsin residents are choosing these app-based earnings opportunities because of the flexibility and independence it affords. App-based drivers can work when and how they want. The flexibility allows them to schedule work around other commitments, like a full or part-time job, caregiving, or college classes.

Despite the benefits of app-based work, current law makes it very difficult for app-based delivery and rideshare platforms to provide drivers with access to benefits like health insurance, paid leave or retirement accounts.

This bill would allow delivery and rideshare platforms to establish personal portable benefit accounts for qualifying drivers. These portable accounts would be funded by platform contributions based on a percentage of the qualifying driver's earnings. A qualifying driver could then use funds in the account for permissible uses like paying for healthcare expenses, covering time off for an illness, and transferring funds to a retirement account.

In order to protect their independence and flexibility, the bill also creates criteria to further clarify that these app-based drivers are contractors and not employees. The bill provides that app-based drivers are not employees of a delivery or rideshare platform if the platform refrains from doing the following:

- Setting specific dates, times of day, or a minimum number of hours the app-based driver must be available
- Requiring the driver to accept any specific requests
- Limiting a driver's ability to perform services for another platform

- Limiting a driver's ability from working for any other authorized business

Without this legislation, delivery and rideshare platforms would likely have to pick between providing the independence and flexibility that these app-based drivers overwhelmingly say they want or providing drivers with new benefits and protections. If this bill were to become law, these workers would remain independent contractors even if the delivery or rideshare platform offered these direct benefits to the driver.

If you are interested in co-sponsoring LRB 0875/1, please call Ryan in Rep. Dallman's office at 237-9139 or Nik in Sen. Bradley's office at 266-5400. Your name will be added to the Assembly and Senate version unless otherwise specified.

A copy of this legislation is attached for your review.

### ***Analysis by the Legislative Reference Bureau***

#### ***DELIVERY AND TRANSPORTATION NETWORK COMPANIES***

##### ***General***

*This bill provides that under specific circumstances, delivery network couriers and drivers for transportation network companies (application-based drivers) are not employees of the delivery network companies and transportation network companies (network companies) for the purposes of worker's compensation insurance, minimum wage laws, and unemployment insurance. In the bill, "application-based driver" is defined as a delivery network courier or participating driver who provides services through the online-enabled application, software, website, or system of a network company.*

*Under the bill, if a network company does not engage in all of the following practices, an application-based driver is not an employee or agent of the company: 1) prescribe specific dates, times of day, or a minimum number of hours during which the driver must be logged into the network company's online-enabled application, software, or system; 2) terminate the contract of the driver for not accepting a specific request for transportation or delivery*

service request; 3) restrict the driver from performing services through other network companies except while performing services through that network company; and 4) restrict the driver from

working in any other lawful occupation or business. The bill provides that if this provision is held invalid by a court, the provisions regarding portable benefits accounts and group or blanket accident and sickness insurance coverage for application-based drivers are invalid.

### **Portable benefit accounts**

Under the bill, if certain conditions are satisfied, a financial services provider or other person may obtain approval from the Department of Financial Institutions to offer portable benefit accounts. A “portable benefit account” is an account administered by such an approved financial services provider or other person (portable benefit account provider) from which an individual may receive distributions for the purposes described below.

If an application-based driver meets certain eligibility requirements (eligible driver), a network company must contribute an amount equal to 4 percent of that driver’s quarterly earnings to a portable benefit account, and the driver may also contribute to the portable benefit account. Contributions to a portable benefit account by the account owner may be subtracted from the owner’s income for state income tax purposes. Under the bill, an eligible driver may receive a distribution from a portable benefit account for the following purposes: 1) to compensate for lost income due to an illness or accident or loss of work due to the birth or adoption of the driver’s child; 2) to transfer the money to an individual retirement account (IRA); 3) to pay vision, dental, or health insurance premiums; and 4) to compensate for lost income through no fault of the driver from work for a network company. A network company must ensure that the portable benefit account provider it selects offers at least three options for IRA providers and an eligible driver may not transfer money from a portable benefit account to an IRA in an amount exceeding the contribution limits under federal law. A portable benefit account provider may include an income replacement benefit to be made available to eligible drivers. A financial services provider may not commingle assets in a portable benefit account with other property, except in a common trust fund or common investment fund.

### **Insurance coverage**

*The bill provides that a network company may carry, provide, or otherwise make available group or blanket accident and sickness insurance for its application-based drivers. The bill requires a network company to make available, upon reasonable request, a copy of its group or blanket accident and sickness insurance policy. The bill specifies that the state's worker's compensation laws do not apply to such a policy.*

*The bill also provides that a network company may carry, provide, or otherwise make available group or blanket occupational accident insurance to cover the medical expenses and lost income resulting from an injury suffered by an application-based driver while engaged on the network company's online-enabled application, software, or system. The bill requires a network company to make available, upon reasonable request, a copy of its blanket occupational accident insurance policy. The bill requires that the policy provide, in aggregate, at least \$1,000,000 of coverage for the medical expenses, short-term disability, long-term disability, and survivor benefits. The coverage must include at least \$250,000 for medical expenses; weekly disability payments equal to two-thirds of an application-based driver's average weekly income, subject to certain restrictions, for up to 104 weeks following an injury; and survivor benefits in an amount equal to an application-based driver's average weekly income, subject to certain restrictions, multiplied by 104. The bill provides that if a claim is covered by occupational accident insurance maintained by more than one network company, the insurer of the network company against whom a claim is filed is entitled to a contribution for the pro rata share of coverage attributable to one or more other network companies.*

*Under the bill, any benefit provided to an application-based driver under an occupational accident insurance policy is treated as amounts payable under a worker's compensation law or disability benefit for the purpose of determining amounts payable under uninsured or underinsured motorist coverage.*

*Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill. For further information see the state fiscal estimate, which will be printed as an appendix to this bill.*