

HOUSE BILL NO. 376

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

Introduced: 2/20/24

Referred: Transportation, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to transportation network and delivery network companies."**

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

3 *** Section 1.** AS 23.30.230(a) is amended to read:

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

5 (1) a part-time babysitter;

6 (2) a cleaning person;

7 (3) harvest help and similar part-time or transient help;

8 (4) a person employed as a sports official on a contractual basis and
9 who officiates only at sports events in which the players are not compensated; in this
10 paragraph, "sports official" includes an umpire, referee, judge, scorekeeper,
11 timekeeper, organizer, or other person who is a neutral participant in a sports event;

12 (5) a person employed as an entertainer on a contractual basis;

13 (6) a commercial fisherman, as defined in AS 16.05.940;

14 (7) an individual who drives a taxicab and whose compensation and
15 written contractual arrangement is as described in AS 23.10.055(a)(13), unless the

1 hours worked by the individual or the areas in which the individual may work are
2 restricted except to comply with local ordinances;

3 (8) a participant in the Alaska temporary assistance program
4 (AS 47.27) who is engaged in work activities required under AS 47.27.035 other than
5 subsidized or unsubsidized work or on-the-job training;

6 (9) a person employed as a player or coach by a professional hockey
7 team if the person is covered under a health care insurance plan provided by the
8 professional hockey team, the coverage is applicable to both work-related and
9 nonwork-related injuries, and the coverage provides medical and related benefits as
10 required under this chapter, except that coverage may not be limited to two years from
11 the date of injury as described under AS 23.30.095(a); in this paragraph, "health care
12 insurance" has the meaning given in AS 21.12.050;

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

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

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

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

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

31 (C) incurs most of the expenses for tools, labor, and other

1 operational costs necessary to perform the services, except that materials and
2 equipment may be supplied;

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

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

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

10 (G) follows federal Internal Revenue Service requirements by

11 (i) obtaining an employer identification number, if
12 required;

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

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

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

21 (i) the person is responsible for the satisfactory
22 completion of services that the person has contracted to perform and is
23 subject to liability for a failure to complete the contracted work, or
24 maintains liability insurance or other insurance policies necessary to
25 protect the employees, financial interests, and customers of the person's
26 business;

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

30 (iii) the person provides contracted services for two or
31 more different customers within a 12-month period or engages in any

1 kind of business advertising, solicitation, or other marketing efforts
 2 reasonably calculated to obtain new contracts to provide similar
 3 services; **and**

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

7 * **Sec. 2.** AS 28.23.080(a) is amended to read:

8 (a) Except as provided in (b) of this section, a transportation network company
 9 **or delivery network company** is not an employer of transportation network company
 10 drivers **or delivery network company couriers** under AS 23.10.699, AS 23.20.520,
 11 or AS 23.30.395. A transportation network company driver **or delivery network**
 12 **company courier** is an independent contractor for all purposes and is not an employee
 13 of the [TRANSPORTATION NETWORK] company if the [TRANSPORTATION
 14 NETWORK] company

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

18 (2) does not impose restrictions on the ability of the driver to use the
 19 digital network of other transportation network companies **or delivery network**
 20 **companies**;

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

23 (4) enters into a written agreement with the driver **or courier** stating
 24 that the driver **or courier** is an independent contractor for the [TRANSPORTATION
 25 NETWORK] company.

26 * **Sec. 3.** AS 28.23.180(1) is amended to read:

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

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

31 **(B) delivery network company to facilitate offers for**

1 **delivery services;**

2 * **Sec. 4.** AS 28.23.180 is amended by adding new paragraphs to read:

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

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

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

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

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