

Washington State Expands Paid Family and Medical Leave to App-Based Drivers

ATTORNEYS

Zachary B. Pyers
614.232.2411
zpyers@reminger.com

Katie Lynn Zorc (Farrell)
216.430.2314
kzorc@reminger.com

Joseph Borchelt
513.455.4014
jborchelt@reminger.com

Houston Hum
317.527.6716
hhum@reminger.com

Lyndsay I. Ignasiak
317.853.7372
Lignasiak@reminger.com

Gregory S. Metzger
502.625.7301
gmetzger@reminger.com

Rafael P. McLaughlin
260.755.2280
rmclaughlin@reminger.com

PRACTICE AREAS

Employment Practices
Defense

May 16, 2023

Gig economy workers are generally classified as independent contractors. However, this classification has been continuously challenged by the gig economy workers, and at times, by the App based companies through whom they find work.

This has resulted in some state legislatures passing bills that require app-based companies to offer benefits, that are often reserved for employees of the app-based rideshare and delivery companies, to their independent contractors. The first such Bill was in California. Now, other states may be following suit.

In March 2022, Washington state lawmakers passed House Bill (“HB”) 2076: The Expand Fairness Act. Effective January 1, 2023, the bill gave Washington app-based drivers the following rights:

- state Workers’ Compensation coverage
- paid sick leave
- the guaranteed minimum pay for minutes worked, miles driven, and trips made
- a requirement that drivers must be provided just cause before account deactivation
- protection from retaliation for exercising these rights

The Expand Fairness Act was a compromise between state lawmakers, labor leaders, and app-based rideshare companies to avoid a ballot initiative, like California’s Proposition 22, while maintaining the driver’s independent contractor status. Included in the bill was an initiative to study unemployment insurance and paid family and medical leave benefits for app-based drivers.

In response to the results of the study, Washington legislators passed HB 1570, expanding the state’s Unemployment Insurance (“UI”) and Paid Family and Medical Leave (“FMLA”) programs to app-based drivers. Under HB 1570, drivers are eligible for twelve weeks of paid leave for a medical event or the birth of a child. Once signed by the governor, HB 1570 will take effect in July 2024.

Washington provides Paid FMLA to other workers, but it is the first state to provide Paid FMLA to app-based drivers. Premiums for the approximately 30,000 drivers eligible for the programs will be paid by the rideshare companies, however, it is currently unknown how the companies will recoup the costs. The cost is likely to be passed to riders through rate increases in the area.

HB 1570 is the first bill to expand UI and Paid FMLA to app-based drivers and may inspire other states to include those benefits among the employment rights provided to app-based drivers as they navigate classifying them as employees, independent contractors, or a new third category.

If you have any questions regarding this legislation or any employment question, please call one of Reminger's Employment Practices Liability Practice Group.