

WAC 296-128-99260 Enforcement—Complaint by driver—Paid sick

time. (1) If a driver files a complaint with the department alleging that the transportation network company failed to provide the driver with earned paid sick time as provided in RCW 49.46.210, or any associated rules, the department will investigate the complaint as an alleged violation of a compensation-related requirement of RCW 49.46.300.

(2) If the department's investigation results in a finding that the transportation network company failed to provide the driver with earned paid sick time accrual, use, or carryover as required by RCW 49.46.210, the driver may elect to:

(a) Receive full access to the balance of accrued earned paid sick time hours withheld by the transportation network company, based on a calculation of at least one hour of earned paid sick time for every 40 hours of passenger platform time worked during the period of noncompliance; or

(b) Receive payment from the transportation network company at the driver's average hourly compensation for each hour of earned paid sick time that the driver would have used or have been reasonably expected to use, whichever is greater, during the period of noncompliance, not to exceed an amount the driver would have otherwise accrued. The driver will receive full access to the balance of accrued paid sick time hours unlawfully withheld by the transportation network company, less the number of paid sick time paid out to the driver pursuant to this subsection.

(3) When the department's investigation results in a finding that the transportation network company failed to provide the driver with earned paid sick time accrual, use, or carryover, and the driver has a deactivated account, the driver may elect to receive payment at the driver's average hourly compensation for each hour of earned paid sick time; receive reinstatement of the balance of paid sick time hours; or receive a combination of payment and reinstatement from the transportation network company for all hours of earned paid sick time that would have accrued during the period of noncompliance, unless such reinstatement is prohibited by law. Such hours must be based on a calculation at least one hour of earned paid sick time for every 40 hours of passenger platform time worked during the period of noncompliance.

(4) The department's notice of assessment may order the transportation network company to provide the driver any combination of reinstatement and payment of accrued, unused paid sick leave hours assessed pursuant to subsection (2) or (3) of this section.

(5) For the purposes of this section, a transportation network company found to be out of compliance must allow an affected driver to access any unused earned paid time ordered by the department for 365 days following the reinstatement of the earned paid sick time.

(6) For purposes of this section, a transportation network company found to be out of compliance must allow an affected driver to carryover over any additional earned paid sick time ordered by the department to the next calendar year in addition to the carryover of 40 hours of unused earned sick time required by RCW 49.46.210.

(7) The department may conduct a consolidated investigation for any alleged violations identified in RCW 49.46.210 or any associated rules, when there are common questions of law or fact involving drivers who provide passenger platform services for the same transportation network company. If the department consolidates such matters into

a single investigation, it will provide notice to the transportation network company.

(8) The department may, for the purposes of enforcing RCW 49.46.210 or any associated rules, issue subpoenas to compel the attendance of witnesses or parties and the production of documents, administer oaths and examine witnesses under oath, take depositions, and seek affidavits or other verifications. The department may request a transportation network company perform a self-audit of any records. The results or conclusions of the self-audit must be provided to the department within a reasonable time. Reasonable timelines will be specified in the self-audit request. The records examined by the transportation network company in order to perform the self-audit must be made available to the department upon request.

(9) Upon the department's request, a transportation network company must notify drivers via an accessible system that the department is conducting an investigation. The department may require the transportation network company to include a general description of each investigation as part of the notification, including the allegations and whether the notified driver may be affected. The department may consult with the transportation network company to provide the information for the description.

[Statutory Authority: RCW 49.46.300(16) and chapter 49.46 RCW. WSR 22-24-034, § 296-128-99260, filed 11/30/22, effective 1/1/23.]