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WISCONSIN STATE SENATOR

Senate Bill 256
Senate Committee on Utilities, Technology, and Tourism
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Thank you for your attention as we discuss Senate Bill 256 (SB 256), and how it can benefit thousands of workers in our state.

DoorDash, Instacart, Uber, and Lyft. Twenty years ago, none of these companies existed. Ten years ago, most people hadn't heard of them. Today, in addition to driving us and our food orders, they're helping drive our economy.

The gig economy is here to stay - and with it, the flexibility that many workers value and desire. Unfortunately, current laws prevent drivers from accessing crucial benefits. These include healthcare, paid leave, and retirement savings. That's the problem SB 256 aims to address.

This legislation creates portable benefit accounts, funded through contributions from the platforms based on drivers' earnings. These accounts can be used by drivers to pay for a range of expenses, including healthcare, retirement savings, or coverage of lost wages due to illness or an accident. Furthermore, the bill allows these companies to provide occupational accident insurance, offering additional financial security for workers injured on the job.

To truly understand the impact of this legislation, consider the experiences of Mark from Waukesha. Mark is a mechanic who supplements his income through DoorDash deliveries. Mark explained that having portable benefits would offer him critical support if he encountered an unexpected crisis, such as a car accident.

Similarly, Rachel, who moved to Wisconsin from Chicago, uses gig work to sustain herself while building her own business. Rachel highlighted the significant advantage of having portable benefits, particularly for essential health-related expenses. She emphasized how beneficial a financial cushion would be for her.

These personal stories underscore why this bill is vital. By supporting portable benefits, we enable gig economy workers to achieve both flexibility and security.

Previous versions of this legislation have garnered bipartisan support, and that support is only growing. It's time we modernize our policies to meet the realities faced by thousands of Wisconsin workers. I urge your support for this critical legislation.

Thank you.



ALEX A. DALLMAN

STATE REPRESENTATIVE • 39TH ASSEMBLY DISTRICT

Testimony in Favor of Senate Bill 256

Senate Committee on Utilities and Tourism

May 20, 2025

Thank you, Chairman Bradley and committee members for allowing me to testify in favor of Senate Bill 256, which will allow Transportation Network Companies (TNCs) and Delivery Network Companies (DNCs) to offer certain incentives and benefits to their drivers. I also want to thank Senator Bradley for his leadership on this legislation.

There are over 300,000 gig industry workers in Wisconsin who deliver food, groceries, and provide transportation. These drivers are an important part of not only our state's economy, but also for thousands of Wisconsinites who rely on these individuals to provide transportation to doctor appointments, a safe ride home, or drop off food right to your doorstep. Drivers also value the independence they have to work when, where, and for as long as they want in order to earn income.

This bill will give these workers the opportunity to access and participate in portable benefits like health insurance, retirement savings, dental and vision insurance, replacement of lost income, and occupational accident insurance. Unfortunately, they currently don't have access to these benefits that a traditional full-time employee has.

SB 256 also makes it clear that these drivers are contractors and not employees of a TNC or DNC if the company refrains from doing the following:

- Set explicit minimum number of hours
- Abolish the contract if the driver does not accept specific requests
- Limit a driver's ability to perform services for another TNC or DNC
- Limit a driver's ability from working for any other authorized business

Many Wisconsinites drive for TNCs and DNCs like Uber, DoorDash, and Instacart as second or even third jobs. By allowing drivers to participate and contribute to additional worker benefits, SB 256 will help maintain the independence they value while also providing opportunities for earned benefits.

Thank you again, for the opportunity to testify before this committee today and I am happy to answer any questions you may have.

DoorDash Oral Testimony ISO WI Senate Bill 256 (Bradley) – Portable Benefits

- Thank you **Chair Bradley, Vice Chair Feyen (“Fine”)**, and members of the **Committee on Utilities, Technology and Tourism** for the opportunity to testify today in support of Senate Bill 256.
- My name is **Mike Pomerantz**, and I am the **Head of DoorDash’s Public Engagement Team** covering the **Central Region of the U.S.**
- **DoorDash** is a local commerce platform and technology company that operates a third-party delivery network. Our mission is to grow and empower local economies, including those here in **Wisconsin**.
- As of December 2024, we have partnered with **more than 7,000 businesses** throughout Wisconsin for online ordering, takeout, delivery, and marketing services on the DoorDash Marketplace.
- Last year, **more than 118,000 Wisconsinites** from all walks of life dashed to earn supplemental income when, where, and how they wanted as couriers – whom we call “Dashers.” Dashers use our platform to deliver meals, groceries, and other essentials in and around their communities.
- Why do these folks choose to dash? Because they want to earn extra income in a way that works for them and, importantly, in a way that is different from traditional employment. Dashing fits into busy schedules, and it is available as a supplemental income stream when Dashers want it or need it.
- To be sure, most Dashers don’t dash very much. In the fourth quarter of last year, Wisconsin Dashers, on average, **spent about 3 hours per week on delivery**. And during the same period, **approximately 92% of Wisconsin Dashers spent**, on average, fewer than 10 hours per week on delivery.

- So, what are Dashers doing when they aren't dashing? The vast majority of them – **79% – have other income or responsibilities outside of dashing**. These Dashers have full-time or part-time jobs. They are caregivers for young children or aging family members. Some are students, retirees, small business owners, and stay-at-home parents. And although their individual circumstances vary widely, by and large, Dashers are people for whom flexibility and the ability to be your own boss is paramount.
- For Dashers, flexibility means true flexibility. It means the ability to work when you want, where you want, and for how long you want. Dashers don't have to work set schedules or a minimum number of shifts. They don't have to work at specific times or in specific places. Dashers can accept or reject delivery offers as they see fit.
- Dashing is available when Dashers want it, but they can leave the platform for days, weeks, or even months at a time and return whenever they want. Because dashing allows them to be their own bosses, there is no need to request time off to go to appointments, care for a sick child, or to deal with emergencies. No permission is required – because again, Dashers are their own bosses.
- Dashing is accessible work. It has a low barrier to entry, and pretty much anyone can do it. A person can create a Dasher account and get approved to start dashing on the same day – pending a background check and a motor vehicle records check. This is all by design.
- In other words, dashing provides an unparalleled level of flexibility that no job as a traditional employee can match. That's why **88% of Dashers** in a national survey said that they would **prefer to remain independent contractors** instead of becoming employees. And it's why **92% of Dashers** said dashing provides them with **more flexibility** than other earning opportunities.
- Most Dashers **already have access to benefits from another source**, like a spouse or a full-time job. For example, according to a 2023 survey, 82% of them have access to health, vision, or dental insurance and 54% already have a retirement savings account. But those who

are dashing the most are less likely to have access to benefits from other sources and are more likely to want access to benefits through app-based work.

- That's why we support SB 256. We think it's time to strengthen independent work.
- First, SB 256 would protect the flexibility and independence of Dashers in Wisconsin. Again and again, this is what Dashers tell us they value most about this type of work.
- Second, SB 256 would strengthen independent work by authorizing company-funded portable benefits accounts for app-based workers like Dashers who achieve a reasonable quarterly **earnings threshold of \$750**. Eligible Dashers would be free to use these portable benefits funds to purchase the benefits they want, and they would be able to take their benefits with them and access them no matter where they work.
- Third, SB 256 would enable Dashers and other app-based workers to earn benefits through several platforms at once. Dashers who also drive for Uber could access benefits from either or both companies, for example.
- SB 256 is an innovative policy that recognizes the new ways that Wisconsinites are working and responds to their desire that independent work be protected and strengthened.
- We urge you to support SB 256, and we welcome the opportunity to be a resource for the Committee as you consider this exciting legislation. Thank you!



Wisconsin State AFL-CIO

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In Opposition of SB 256
Senate Committee on Utilities and Tourism
May 20, 2025

Good morning Chairman Bradley and members of the Committee. My name is Stephanie Bloomingdale. I am the President of the Wisconsin State AFL-CIO. I appear before you today on behalf of the hard-working men and women of the Wisconsin State AFL-CIO in opposition to this bill, SB 256.

Wisconsin's workers, whether full-time or part-time, unionized or un-represented, deserve policies that assure the protection of our rights on the job and the payment of family-supporting wages and benefits. The Wisconsin AFL-CIO values all work, and advocates for all workers by supporting employment policies that allow flexibility, living wages, and health, medical, and retirement benefits for every worker.

We oppose Senate Bill 256 because it does not guarantee any more or less flexibility for workers, does not guarantee good wages, and does not guarantee benefits for workers in the gig economy. It does none of these things because the bill eliminates employee status for these workers, and all of the rights that come with this status. Further, and importantly, Senate Bill 256 does not guarantee or require that the tech-giant employers provide any benefits – portable or fixed – for all or even any app-based driver, whose labor have created vast sums of wealth for its investors and owners.

The lynchpin of this bill is found on page 6, line 16, when it states, "An application-based driver is not an employee." This bill, with that one line, will eliminate the "employee" status for every Wisconsin delivery worker who is employed by a delivery app company like Uber or DoorDash. This bill does not eliminate a mere technicality but eliminates essential rights of workers. It is the result of a concerted attempt by these tech giants to evade providing basic employment protections like worker's comp, unemployment insurance, minimum wage, and our rights under the Wisconsin Fair Employment Act.

In sum, this bill would create a special exemption for these powerful corporations at the expense of Wisconsin's working men and women, our families, and every taxpayer.

I. SENATE BILL 256 EXEMPTS EVERY APP-BASED DRIVER FROM THEIR RIGHTS ON THE JOB

Senate Bill 256 exempts app-based delivery drivers from settled Wisconsin law concerning our worker's compensation, minimum wage, and unemployment insurance laws.

This bill specifically amends both the Worker's Compensation Act (Ch. 102) and Unemployment Insurance System (Ch. 108) without properly going through either the Wisconsin Worker's Compensation or Unemployment Insurance Advisory Councils.

In both the Wisconsin Worker's Compensation and Unemployment Insurance Advisory Councils, experts from management and labor comprise each Advisory Council and examine various proposals to amend each statute, through a process of vetting and negotiation to advise the Legislature each session on policy matters concerning the development and administration of the applicable law. When labor and management experts agree to recommended changes, legislators can be assured that the proposed bill represents sound policy.

This bill did not receive vetting, examination, or an agreement at either Advisory Council. This bill was introduced into the Wisconsin State Legislature first in 2021 and again in 2023: at no point over the course of the last four years have either the Worker's Compensation or Unemployment Insurance Advisory Councils vetted this proposal. Instead, this bill time and time again has bypassed the Advisory Council process, at the bidding of powerful tech corporations.

Senate Bill 256 proposes substantial changes to our Worker's Compensation Act, like substituting the current nine-part test¹ to determine whether an injured worker is eligible for worker's comp. This nine-part test has been the law of the land for decades, and this bill proposes to undo that at the expense of every worker and every taxpayer. If this bill is passed, and a delivery worker employed by an app company is hurt on the job, then worker's comp would never apply. Taxpayers would foot any unpaid hospital bill and the injured worker would not be given the same prompt treatment, benefits for lost wages, and an incentive to return to work. Notably this bill allows, but importantly does not require, these multi-national corporations to provide an occupational accident insurance policy for drivers.

Similarly, this bill proposes substantial changes to the Wisconsin's Unemployment Insurance law, like substituting the current test² to determine whether a worker is an employee, and eligible for unemployment insurance, or is an independent contractor. The test is decades-old and is a wholly separate test than the worker's compensation test I referred to earlier. In the current UI test, the worker first must meet a question of control by an employer and then must meet six of nine other factors in order to be considered an employee. This bill would substitute this intricate test for a simple four-point test. Again, this bill allows, but importantly does not require, the multi-national corporations to provide a portable benefit account. Further, the portable benefit account if established, may, but is not required to, provide a distribution to the eligible driver for the purpose of a loss of work only due to two narrow situations.

This portion of the bill is not just attempting to change Wisconsin's Unemployment Insurance law as expressed in Chapter 108, but is also seeking to upend case law as it pertains to app-based delivery drivers and their right to receive unemployment insurance benefits under

¹ Wis. Stat 102.07(8)

² Wis Stat 108.02(12)

Sec. 108, as was decided by the Wisconsin Court of Appeals and the Wisconsin Supreme Court, most recently in 2024.

Furthermore, under Wisconsin Chapter 104, workers who are classified as “employees” are entitled to the minimum wage, and in the Wisconsin Fair Employment Act we are owed overtime protections, protections against discrimination, and a right to Wisconsin Family and Medical Leave. The test to determine whether a worker qualifies as an employee for wage and hour benefits is set by the Wisconsin Court of Appeals³ case law. This bill would permanently wipe out these rights, such as the right to make a minimum wage and the right to overtime, for app-based delivery drivers.

II. MANDATORY LOSSES, VOLUNTARY BENEFITS FOR WORKERS

Senate Bill 256 requires the loss of employee status for every Wisconsin worker who works as an app-based delivery driver and leaves the decisions to offer portable benefit accounts and the contribution to those accounts as wholly optional. Senate Bill 256 makes clear that the decision to offer and even contribute to a portable benefit account is only for select app-based delivery drivers and, still, is entirely up to the multi-national corporation’s will.

As I stated in the introduction, the lynchpin of this bill is found on page 6, line 16, when it carves out one industry’s workers from employee status. This bill then goes on to create optional portable benefit accounts for only some app-based drivers. The bill states on page 8 in lines 15-17 of the bill “a network company *may* offer portable benefit accounts to eligible drivers but is not required to offer such accounts.” Notably in that same line, the bill states that not every app-based gig driver may be offered a portable benefit account – just those that the bill defines as “eligible”.

Indeed, throughout Section 15 of the bill, the authors state that 1) only “eligible drivers” are allowed to be offered a portable benefit account; 2) only “eligible drivers” may be able to receive a contribution in the portable benefit account from either the company or the driver themselves; and 3) only “eligible drivers” may be able to receive a disbursement from the portable benefit account.

In addition, the bill goes on to underscore the voluntary nature of any benefit provided to app-based gig drivers on page 13, on lines 15-16, it states “A network company *may* carry, provide, or otherwise make available group or blanket accident and sickness insurance...” Again, on pages 13-14 the bill similarly states “A network company *may* carry, provide, or otherwise make available group or blanket occupational accident insurance...” **Therefore, all of the so-called benefits talked about in this bill may never come to fruition for any gig driver and yet the bill makes mandatory the loss of employee status for every single app-based driver.**

³ Moore v. LIRC, 175 Wis. 2d 561 (1993).

III. BENEFICIARIES OF THIS BILL: CORPORATIONS, NOT WISCONSIN

This bill was not written for Wisconsin, but written for tech giants. The measure undermines not just Wisconsin's workers, but also Wisconsin's companies and small family-owned businesses that follow the law. By creating a special carve out for the workers of Uber, DoorDash, Instacart, and similar multi-national corporations, this bill puts smaller companies at a disadvantage as they must continue to follow the law and provide essential workplace rights for their workers, including their own delivery drivers.

This bill also presents a slippery slope, as we can already imagine the number of other bills coming from this and other powerful industries to carve out other workers. If this bill passes, we will be back here as those who do the bidding for out-of-state or international corporations come to this legislative body to similarly carve out a certain class of workers to evade state law, and reclassify each group of workers one-by-one. If these companies succeed in passing this bill, their low-pay, no-protection business model could expand in virtually every industry, leading to a race to the bottom.

The rights and protections to which workers are entitled – from worker's compensation to unemployment insurance – are the product of many years of struggle; they must not be stripped away simply because the modalities of doing business have changed. The changes that this Senate Bill 256 proposes are a contradiction not just of our Wisconsin values but our law, which has relied upon legislatively-created Advisory Council to study and vet changes to our worker's compensation and unemployment insurance law.

I ask that you each oppose this bill, Senate Bill 256. It is simply not acceptable to create a special exemption from long-standing Wisconsin employment law for these powerful corporations at the expense of Wisconsin's working men and women, and every taxpayer. Please put Wisconsin's workers above out-of-state tech giants and oppose this bill.