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**SENATE BILL 6444**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Senators Braun and Angel

AN ACT Relating to providers of commercial transportation services; amending RCW 46.72.010; and adding a new chapter to Title 46 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of licensing.

(2) "Personal vehicle" means a vehicle that is used by a commercial transportation services provider driver in connection with providing services for a commercial transportation services provider and that is authorized by the commercial transportation services provider.

(3) "Prearranged ride" means a route of travel between points chosen by the passenger and arranged with a driver through the use of a commercial transportation services provider's digital network or software application. The ride begins when a driver accepts a requested ride through a digital network or software application, continues while the driver transports the passenger in a personal vehicle, and ends when the passenger departs from the personal vehicle.

(4) "Commercial transportation services" or "services" means all times the driver is logged in to a commercial transportation services provider's digital network or software application or until the passenger has left the personal vehicle, whichever is later. The term does not include services provided either directly or under contract with a political subdivision or other entity exempt from federal income tax under 26 U.S.C. Sec. 115 of the federal internal revenue code.

(5) "Commercial transportation services provider" means a corporation, partnership, sole proprietorship, or other entity, operating in Washington, that uses a digital network or software application to connect passengers to drivers for the purpose of providing a prearranged ride. However, a commercial transportation services provider is not a taxicab company under chapter 81.72 RCW, a charter party or excursion service carrier under chapter 81.70 RCW, an auto transportation company under chapter 81.68 RCW, a private, nonprofit transportation provider under chapter 81.66 RCW, or a limousine carrier under chapter 46.72A RCW. A commercial transportation services provider is not deemed to own, control, operate, or manage the personal vehicles used by commercial transportation services providers. A commercial transportation services provider does not include a political subdivision or other entity exempt from federal income tax under 26 U.S.C. Sec. 115 of the federal internal revenue code.

(6) "Commercial transportation services provider driver" or "driver" means an individual who uses a personal vehicle to provide services for passengers matched through a commercial transportation services provider's digital network or software application.

(7) "Commercial transportation services provider passenger" or "passenger" means a passenger in a personal vehicle for whom transport is provided, including:

(a) An individual who uses a commercial transportation services provider's digital network or software application to connect with a driver to obtain services in the driver's vehicle for the individual and anyone in the individual's party; or

(b) Anyone for whom another individual uses a commercial transportation services provider's digital network or software application to connect with a driver to obtain services in the driver's vehicle.

NEW SECTION. **Sec.**  (1)(a) A commercial transportation services provider must comply with the requirements of this chapter, including those relating to a driver's compliance with insurance, qualification, conduct, nondiscrimination, maximum work hours, criminal history, and driving record requirements. Any penalty for a violation of this chapter may be assessed only against the commercial transportation services provider, unless the commercial transportation services provider could not have reasonably known of the violation.

(b) This chapter does not relieve a driver from complying with the applicable requirements set out in this title, including those relating to drivers' licenses, vehicle registrations, minimum insurance, rules of the road, and the penalties associated with any violation.

(2) Except as provided in rules adopted by the department pursuant to this chapter, chapter 18.235 RCW governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

(3) A commercial transportation services provider must comply with the filing requirements of chapter 23B.02 RCW and the registered agent requirements of chapter 23B.05 RCW.

(4) Pursuant to rules adopted by the department, every commercial transportation services provider operating under this chapter must submit a quarterly report to the department, providing at a minimum the total number of drivers using its digital network or software application, the total number of prearranged rides, the total hours that drivers are logged in to its network, the total hours spent providing commercial transportation services, and describing any accident in which a personal vehicle was involved while carrying a passenger.

(5)(a) A commercial transportation services provider may not, with respect to drivers using its digital network or software application, or drivers using the digital network or software application of another commercial transportation services provider, engage in anticompetitive behavior, including requiring drivers to agree to a noncompetition agreement.

(b) A commercial transportation services provider may not prohibit a driver from using a personal vehicle to provide commercial transportation services using the digital network or software application of another commercial transportation services provider.

(c) A commercial transportation services provider may prohibit a driver's use of any brand or mark of the commercial transportation services provider in a way that is confusing to the public.

(6) Every commercial transportation services provider must, if achievable, make its digital network or software application accessible to persons with disabilities.

NEW SECTION. **Sec.**  A city, county, political subdivision, or special purpose district may not:

(1) Adopt a law, rule, or ordinance that is in conflict with this chapter;

(2) Require a commercial transportation services provider to obtain any additional approval, such as a permit or license, before operating within the jurisdiction. However, this section does not apply to standard business licenses and the levying of business-related taxes at the local level; or

(3) Prohibit the provision of commercial transportation services or the use of such services within the jurisdiction.

NEW SECTION. **Sec.**  (1) The following requirements apply to the provision of services:

(a) A driver may not provide services unless a commercial transportation services provider has matched the driver to a passenger through a digital network or software application. A driver may not solicit or accept the on-demand summoning of a ride.

(b) A commercial transportation services provider must make available to prospective passengers and drivers the method by which the commercial transportation services provider calculates fares or the applicable rates being charged and an option to receive an estimated fare.

(c) Upon completion of a prearranged ride, a commercial transportation services provider must transmit to the passenger an electronic receipt, either by electronic mail or by text message, which must document:

(i) The point of origin and destination of the passenger's trip;

(ii) The total duration and distance of the passenger's trip;

(iii) The total fare paid, including the base fare and any additional charges incurred or distance traveled or duration of the passenger's trip; and

(iv) The driver's first name and license plate number.

(d) Before permitting a person to act as a driver on its digital network or software application, a commercial transportation services provider must confirm that the person is at least twenty-one years of age and possesses:

(i) A valid driver's license;

(ii) Proof of private passenger automobile insurance;

(iii) Proof that the vehicle is registered in Washington; and

(iv) Within ninety days of the effective date of this section and pursuant to rules adopted by the department, proof that the person has certified that he or she does not experience any condition that interferes with his or her ability to safely provide services pursuant to this chapter.

(e) A driver may not provide commercial transportation services for more than twelve consecutive hours or more than twelve hours in any twenty-four hour period, except that a driver may finish a prearranged ride that began before either time restriction.

(f) A commercial transportation services provider must implement an intoxicating substance policy for drivers that disallows any amount of intoxication of the driver while providing services. The commercial transportation services provider must include on its web site and mobile device application software a notice concerning the commercial transportation services provider's intoxicating substance policy.

(g)(i) Prior to providing commercial transportation services, a commercial transportation services provider must require every personal vehicle to undergo a uniform vehicle safety inspection, approved by the department, and performed by an approved mechanic who must certify in writing that the vehicle is mechanically sound and fit for driving. The approved mechanic must also certify in writing that the plates, decals, and customer notices required under this chapter are legible and properly displayed.

(ii) The safety inspection required under this subsection (1)(g) must be conducted annually while the personal vehicle is being used to provide commercial transportation services.

(h) A personal vehicle must have at least four doors and be designed to carry no more than eight passengers, including the driver.

(i)(i) A commercial transportation services provider must make the following disclosures to a prospective driver in the prospective driver's terms of service:

WHILE OPERATING ON THE COMMERCIAL TRANSPORTATION SERVICES PROVIDER'S DIGITAL NETWORK OR SOFTWARE APPLICATION, YOUR PRIVATE PASSENGER AUTOMOBILE INSURANCE POLICY MIGHT NOT AFFORD LIABILITY, UNDERINSURED MOTORIST, PERSONAL INJURY PROTECTION, COMPREHENSIVE OR COLLISION COVERAGE, DEPENDING ON THE TERMS OF THE POLICY.

IF THE VEHICLE THAT YOU PLAN TO USE TO PROVIDE COMMERCIAL TRANSPORTATION SERVICES FOR OUR COMMERCIAL TRANSPORTATION SERVICES PROVIDER HAS A LIEN AGAINST IT, YOU MUST NOTIFY THE LIENHOLDER THAT YOU WILL BE USING THE VEHICLE FOR COMMERCIAL TRANSPORTATION SERVICES THAT MAY VIOLATE THE TERMS OF YOUR CONTRACT WITH THE LIENHOLDER.

(ii) The prospective driver must acknowledge the terms of service electronically or by signature.

(j) A commercial transportation services provider must make available to a passenger a customer support telephone number on its digital network, software application, or web site for passenger inquiries.

(k)(i) A commercial transportation services provider may not disclose to a third party any personally identifiable information concerning the user of the commercial transportation services provider's digital network or software application, unless:

(A) The commercial transportation services provider obtains the user's consent to disclose personally identifiable information;

(B) Disclosure is necessary to comply with a legal obligation; or

(C) Disclosure is necessary to protect or defend the terms and conditions for use of the service or to investigate violations of the terms and conditions.

(ii) The limitation on disclosure does not apply to the disclosure of aggregated user data.

(iii) The department may revoke a commercial transportation services provider's permit upon the department's finding that the company knowingly or negligently violated the passenger privacy provisions of this subsection (1)(k).

(2) Each commercial transportation services provider must require that each personal vehicle providing commercial transportation services display a plainly visible exterior marking that identifies the personal vehicle as one providing such services.

(3) A commercial transportation services provider or a third party must retain inspection records for at least fourteen months after an inspection was conducted for each personal vehicle used by a driver.

(4)(a)(i) Before a person is permitted to act as a driver through use of a commercial transportation services provider's digital network or software application, the person must undergo a criminal history record check. A driver must undergo a criminal history record check every five years while serving as a driver.

(ii) The criminal history record checks required under this section may be administered by the driver, who must provide a copy to the commercial transportation services provider, or the record checks may be administered by the commercial transportation services provider.

(b) A person who has been convicted of driving under the influence of drugs or alcohol in the previous five years before applying to become a driver may not serve as a driver.

(c)(i) If the criminal history record check reveals that the person has ever been convicted of the following felony offenses, the person may not serve as a driver:

(A) An offense involving fraud, as described in chapters 9.45 and 9A.60 RCW;

(B) A sex offense, as described in chapters 9.68A and 9A.44 RCW;

(C) Burglary, trespass, or vehicle prowling, as described in chapter 9A.52 RCW;

(D) Theft, robbery, extortion, or possession of stolen property, as described in chapter 9A.56 RCW;

(E) A violent offense, as defined in RCW 9.94A.030.

(ii) A person who has been convicted of a comparable offense to the offenses listed in (c)(i) of this subsection in another state may not serve as a driver.

(iii) A commercial transportation services provider or a third party must retain the results of a criminal history record check for each driver that provides services for the commercial transportation services provider until five years after the criminal history record check was conducted, or until the acquisition of an updated background check, whichever comes earlier.

(5)(a) Before permitting an individual to act as a driver on its digital network or software application, a commercial transportation services provider must obtain and review the individual's driving record.

(b) An individual with the following violations may not serve as a driver:

(i) More than three moving violations within the three-year period preceding the individual's application to serve as a driver; or

(ii) A violation for reckless driving under RCW 46.61.500; vehicular homicide under RCW 46.61.520; vehicular assault under RCW 46.61.522; negligent driving in the first or second degree under RCW 46.61.5249, 46.61.525, or 46.61.526; driving without a license under RCW 46.20.005; or driving with a revoked license under RCW 46.20.342 or 46.20.345.

(c) A commercial transportation services provider or a third party must retain the driving record for each driver that provides services for the commercial transportation services provider for at least three years.

(6) If any person files a complaint with the department against a commercial transportation services provider or driver, the department may inspect the commercial transportation services provider's records as reasonably necessary to investigate and resolve the complaint.

(7) Vehicle safety inspections and criminal history record checks required under this section and retained by a commercial transportation services provider are not subject to inspection by the department, including as part of any quarterly report required under section 2(4) of this act, except pursuant to departmental audit.

(8)(a) Except for a trip whose destination is more than forty miles from where the passenger is picked up, a commercial transportation services provider and commercial transportation services provider drivers must provide services to the public in a nondiscriminatory manner, regardless of geographic location of the departure point or destination. A commercial transportation services provider or commercial transportation services provider driver may not refuse service or impose additional charges or conditions based on a passenger's race, religion, ethnicity, gender, sexual orientation, gender identity, or disability that could prevent customers from accessing transportation. A driver may not refuse to transport a passenger, unless:

(i) The passenger is acting in an unlawful, disorderly, or endangering manner; or

(ii) The passenger is unable to care for himself or herself and is not in the charge of a responsible companion.

(b) A driver must permit a service animal to accompany a passenger on a prearranged ride.

(c)(i) If a passenger with physical or mental disabilities requires the use of mobility equipment, a driver must store such equipment in the vehicle during a prearranged ride, if the vehicle is reasonably capable of doing so. If the driver is unable to store a passenger's mobility equipment in the driver's vehicle, the driver must refer the passenger to another driver or transportation service with a vehicle that is equipped to accommodate such equipment, and may not charge the passenger a cancellation fee.

(ii) If a passenger is traveling with a child who requires the use of a child restraint system under RCW 46.61.687, a driver must allow the passenger to temporarily install the restraint system in the personal vehicle, if the vehicle is reasonably capable of accepting it. If the child restraint system is unable to be temporarily installed in the vehicle, the driver must refer the passenger to another driver or transportation service with a vehicle that is equipped to accommodate such a system, and may not charge the passenger a cancellation fee.

(9) Within ten days of receiving a complaint about a driver's alleged violation of subsection (8) of this section, the department must report the complaint to the commercial transportation services provider for which the driver provides services.

(10) A driver must immediately report to the commercial transportation services provider any refusal to transport a passenger pursuant to subsection (8)(a) of this section, and the commercial transportation services provider must annually report all such refusals to the department in a form and manner determined by the department.

(11) Before being used to provide commercial transportation services, every personal vehicle must be covered by a primary automobile insurance policy in conformance with chapter 48.--- RCW (the new chapter created in section 11, chapter 236, Laws of 2015).

NEW SECTION. **Sec.**  (1) A commercial transportation services provider may not operate without first having obtained a permit from the department. The department must require this permit to be renewed annually.

(2) The department must issue a permit to each commercial transportation services provider that meets the requirements of this chapter and pays to the department the fees required under subsection (3) of this section. The department may adjust the annual permit fee by rule to recover the department's direct and indirect costs associated with implementing this chapter.

(3)(a) A commercial transportation services provider must pay the following fee to the department at the time of its initial application for a permit:

(i) Until July 1, 2017, the fee is one hundred thousand dollars; and

(ii) After July 1, 2017, the fee is five thousand dollars.

(b) Upon the annual renewal of a permit issued pursuant to this section, a commercial transportation services provider must pay the following applicable renewal fee, depending on the number of drivers shown in the commercial transportation services provider's most recent quarterly report sent to the department pursuant to section 2(4) of this act:

(i) For a commercial transportation services provider with ten or fewer drivers, the annual renewal fee is five thousand dollars;

(ii) For a commercial transportation services provider with more than ten but fewer than one hundred drivers, the annual renewal fee is twenty thousand dollars;

(iii) For a commercial transportation services provider with more than one hundred but fewer than one thousand drivers, the annual renewal fee is fifty thousand dollars; and

(iv) For a commercial transportation services provider with more than one thousand drivers, the annual renewal fee is one hundred thousand dollars.

(4) The department must determine the form and manner of the application for a commercial transportation services provider permit.

(5) Consistent with section 2(1)(a) of this act, the department may cancel, revoke, or suspend any permit issued under this chapter on any of the following grounds:

(a) The violation of any of the provisions of this chapter;

(b) The violation of an order, decision, rule, or requirement established by the department under this chapter;

(c) Failure of the commercial transportation services provider to pay a fee imposed on the company within the time required under law; or

(d) Failure of the commercial transportation services provider to maintain insurance coverage, if required under this chapter.

(6) The department may deny an application under this chapter, or refuse to renew the permit of a commercial transportation services provider, based on a determination that the commercial transportation services provider has not satisfied a civil penalty arising out of an administrative or enforcement action brought by the department.

NEW SECTION. **Sec.**  The commercial transportation services provider account is created in the custody of the state treasurer. All moneys received by the department pursuant to this chapter, and any interest earned on investments in the account, must be deposited into the account. Expenditures from the account may be used by the department for any purpose related to the regulation of commercial transportation services providers that is consistent with this chapter, including, at a minimum, disbursements to local governments to cover enforcement costs. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec.**  (1) The department may adopt rules to implement this chapter, including rules concerning administration, fees, fines and penalties, safety requirements, and the disbursement of funds for local enforcement as described in section 6 of this act.

(2) The department must adopt rules requiring a commercial transportation services provider to file with the department evidence of the commercial transportation services provider's insurance policies required under this chapter and proof of continued validity of these policies.

NEW SECTION. **Sec.**  All personally identifiable information collected under this chapter is exempt from disclosure under chapter 42.56 RCW.

**Sec.**  RCW 46.72.010 and 1996 c 87 s 18 are each amended to read as follows:

When used in this chapter:

(1) The term "for hire vehicle" includes all vehicles used for the transportation of passengers for compensation, except auto stages, school buses operating exclusively under a contract to a school district, personal vehicles under chapter 46.--- RCW (the new chapter created in section 11 of this act), ride-sharing vehicles under chapter 46.74 RCW, limousine carriers licensed under chapter 46.72A RCW, vehicles used by nonprofit transportation providers for elderly persons or ((~~handicapped~~)) persons with disabilities and their attendants under chapter 81.66 RCW, vehicles used by auto transportation companies licensed under chapter 81.68 RCW, vehicles used to provide courtesy transportation at no charge to and from parking lots, hotels, and rental offices, and vehicles used by charter party carriers of passengers and excursion service carriers licensed under chapter 81.70 RCW;

(2) The term "for hire operator" means and includes any person, concern, or entity engaged in the transportation of passengers for compensation in for hire vehicles.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  Sections 1 through 8 of this act constitute a new chapter in Title 46 RCW.

**--- END ---**