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SENATE BILL 6444

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State of Washington

64th Legislature

2016 Regular Session

By Senators Braun and Angel

Read first time 01/20/16. Referred to Committee on Transportation.

1 AN ACT Relating to providers of commercial transportation  
2 services; amending RCW 46.72.010; and adding a new chapter to Title  
3 46 RCW.

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

5 NEW SECTION. **Sec. 1.** The definitions in this section apply  
6 throughout this chapter unless the context clearly requires  
7 otherwise.

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

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

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

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

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

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

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

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

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

1        NEW SECTION.

2        **Sec. 2.**

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

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

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

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

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

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

39        (b) A commercial transportation services provider may not  
40 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.

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

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

7 NEW SECTION. **Sec. 3.** A city, county, political subdivision, or  
8 special purpose district may not:

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

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

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

18 NEW SECTION. **Sec. 4.** (1) The following requirements apply to  
19 the provision of services:

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

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

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

- 33 (i) The point of origin and destination of the passenger's trip;  
34 (ii) The total duration and distance of the passenger's trip;  
35 (iii) The total fare paid, including the base fare and any  
36 additional charges incurred or distance traveled or duration of the  
37 passenger's trip; and  
38 (iv) The driver's first name and license plate number.

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

5 (i) A valid driver's license;

6 (ii) Proof of private passenger automobile insurance;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (A) An offense involving fraud, as described in chapters 9.45 and  
22 9A.60 RCW;

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

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

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

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

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

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

38 (5)(a) Before permitting an individual to act as a driver on its  
39 digital network or software application, a commercial transportation

1 services provider must obtain and review the individual's driving  
2 record.

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

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

8 (ii) A violation for reckless driving under RCW 46.61.500;  
9 vehicular homicide under RCW 46.61.520; vehicular assault under RCW  
10 46.61.522; negligent driving in the first or second degree under RCW  
11 46.61.5249, 46.61.525, or 46.61.526; driving without a license under  
12 RCW 46.20.005; or driving with a revoked license under RCW 46.20.342  
13 or 46.20.345.

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

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

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

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

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

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

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

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

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

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

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

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

36 NEW SECTION. **Sec. 5.** (1) A commercial transportation services  
37 provider may not operate without first having obtained a permit from  
38 the department. The department must require this permit to be renewed  
39 annually.

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

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

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

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

13 (b) Upon the annual renewal of a permit issued pursuant to this  
14 section, a commercial transportation services provider must pay the  
15 following applicable renewal fee, depending on the number of drivers  
16 shown in the commercial transportation services provider's most  
17 recent quarterly report sent to the department pursuant to section  
18 2(4) of this act:

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

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

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

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

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

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

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

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

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

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

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

8 NEW SECTION. **Sec. 6.** The commercial transportation services  
9 provider account is created in the custody of the state treasurer.  
10 All moneys received by the department pursuant to this chapter, and  
11 any interest earned on investments in the account, must be deposited  
12 into the account. Expenditures from the account may be used by the  
13 department for any purpose related to the regulation of commercial  
14 transportation services providers that is consistent with this  
15 chapter, including, at a minimum, disbursements to local governments  
16 to cover enforcement costs. Only the director or the director's  
17 designee may authorize expenditures from the account. The account is  
18 subject to allotment procedures under chapter 43.88 RCW, but an  
19 appropriation is not required for expenditures.

20 NEW SECTION. **Sec. 7.** (1) The department may adopt rules to  
21 implement this chapter, including rules concerning administration,  
22 fees, fines and penalties, safety requirements, and the disbursement  
23 of funds for local enforcement as described in section 6 of this act.

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

29 NEW SECTION. **Sec. 8.** All personally identifiable information  
30 collected under this chapter is exempt from disclosure under chapter  
31 42.56 RCW.

32 **Sec. 9.** RCW 46.72.010 and 1996 c 87 s 18 are each amended to  
33 read as follows:

34 When used in this chapter:

35 (1) The term "for hire vehicle" includes all vehicles used for  
36 the transportation of passengers for compensation, except auto

1 stages, school buses operating exclusively under a contract to a  
2 school district, personal vehicles under chapter 46.--- RCW (the new  
3 chapter created in section 11 of this act), ride-sharing vehicles  
4 under chapter 46.74 RCW, limousine carriers licensed under chapter  
5 46.72A RCW, vehicles used by nonprofit transportation providers for  
6 elderly persons or (~~handicapped~~) persons with disabilities and  
7 their attendants under chapter 81.66 RCW, vehicles used by auto  
8 transportation companies licensed under chapter 81.68 RCW, vehicles  
9 used to provide courtesy transportation at no charge to and from  
10 parking lots, hotels, and rental offices, and vehicles used by  
11 charter party carriers of passengers and excursion service carriers  
12 licensed under chapter 81.70 RCW;

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

16 NEW SECTION. **Sec. 10.** If any provision of this act or its  
17 application to any person or circumstance is held invalid, the  
18 remainder of the act or the application of the provision to other  
19 persons or circumstances is not affected.

20 NEW SECTION. **Sec. 11.** Sections 1 through 8 of this act  
21 constitute a new chapter in Title 46 RCW.

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