

SSB 5620 - S AMD 102
By Senator King

ADOPTED 03/07/2017

1 Strike everything after the enacting clause and insert the
2 following:

3 NEW SECTION. **Sec. 1.** The purpose of this chapter is to:
4 Provide statewide uniform regulation for transportation network
5 companies within the state of Washington, encourage technological
6 innovation, and preserve and enhance access to important
7 transportation options for residents and visitors to Washington
8 state.

9 NEW SECTION. **Sec. 2.** The definitions in this section apply
10 throughout this chapter unless the context clearly requires
11 otherwise.

12 (1) "Digital network" means any online-enabled technology
13 application service, web site, or system offered or utilized by a
14 transportation network company that enables the prearrangement of
15 rides with transportation network company drivers.

16 (2) "Local law enforcement officer" means, for purposes of
17 enforcement, any person authorized by a municipality or county, as
18 applicable, to carry out enforcement activities under this chapter.

19 (3) "Municipality" means a city, town, or code city with a
20 certificate of incorporation, or township created by an act of the
21 state.

22 (4) "Prearranged ride" means the provision of transportation or a
23 trip by a transportation network company driver to a transportation
24 network company rider, beginning when a transportation network
25 company driver accepts a ride requested by a transportation network
26 company rider through a digital network controlled by a
27 transportation network company, continuing while the transportation
28 network company driver transports the transportation network company
29 rider, and ending when the last transportation network company rider
30 departs from the transportation network company vehicle. "Prearranged
31 ride" does not include: (a) Transportation provided by a taxi,

1 limousine, motor carrier as defined in RCW 81.80.010, or other for
2 hire vehicle or pursuant to chapter 46.72, 46.73, or 81.72 RCW; (b) a
3 shared expense carpool or vanpool arrangement or service as defined
4 as ride sharing in RCW 46.74.010; (c) transportation provided by an
5 auto transportation company as defined in RCW 81.68.010; or (d)
6 transportation provided by metropolitan public transportation as
7 defined in RCW 35.58.020.

8 (5) "Transportation network company" means a corporation,
9 partnership, sole proprietorship, or other entity that is licensed
10 under this chapter and operating in Washington state and uses a
11 digital network to connect transportation network company riders to
12 transportation network company drivers who provide prearranged rides.
13 A transportation network company is not deemed to control, direct, or
14 manage the transportation network company vehicles or transportation
15 network company drivers that connect to its digital network, except
16 when agreed to by written contract. "Transportation network company"
17 does not include a for hire transportation service, taxicab
18 transportation service provided under chapter 46.72 or 81.72 RCW, an
19 auto transportation company as defined in RCW 81.68.010, or
20 metropolitan public transportation as defined in RCW 35.58.020.

21 (6) "Transportation network company driver" means an individual
22 who:

23 (a) Receives connections to potential transportation network
24 company riders and related services from a transportation network
25 company; and

26 (b) Uses a transportation network company vehicle to offer or
27 provide a prearranged ride to transportation network company riders
28 upon connection through a digital network controlled by a
29 transportation network company in exchange for compensation or
30 payment of a fee.

31 (7) "Transportation network company rider" means an individual or
32 persons who use a transportation network company's digital network to
33 connect with a transportation network company driver who provides
34 prearranged rides to the rider in the transportation network company
35 driver's transportation network company vehicle between points chosen
36 by the rider.

37 (8) "Transportation network company services" means services
38 provided by a transportation network company driver at any time that
39 a transportation network company driver is logged in to a
40 transportation network company's digital network or providing a

1 prearranged ride. "Transportation network company services" does not
2 include services provided either directly or under contract with a
3 political subdivision or other entity exempt from federal income tax
4 under 26 U.S.C. Sec. 115 of the federal internal revenue code.

5 (9) "Transportation network company vehicle" means a vehicle
6 that:

7 (a) Is used by a transportation network company driver to provide
8 a prearranged ride;

9 (b) Is owned, leased, or otherwise authorized for use by the
10 transportation network company driver;

11 (c) Is not a taxicab, limousine, commuter ride-sharing vehicle,
12 for hire vehicle, auto transportation company vehicle, or
13 metropolitan public transportation vehicle for purposes of chapter
14 35.58, 46.72, 46.72A, 46.73, 46.74, 46.76, 81.68, or 81.72 RCW; and

15 (d) Has a seating capacity of fewer than eight persons, excluding
16 the driver.

17 NEW SECTION. **Sec. 3.** A transportation network company or
18 transportation network company driver is not a common carrier, motor
19 carrier, or any other carrier as defined in RCW 81.80.010, and does
20 not provide commuter ride sharing, taxicab, for hire vehicle
21 services, auto transportation company services, or metropolitan
22 public transportation services pursuant to chapter 35.58, 46.72,
23 46.73, 81.68, or 81.72 RCW. A transportation network company driver
24 is not required to register a transportation network company vehicle
25 used to provide prearranged rides as a commercial vehicle or for hire
26 vehicle.

27 NEW SECTION. **Sec. 4.** (1) A person must first obtain a permit
28 from the department to operate a transportation network company in
29 Washington state, except that any transportation network company
30 operating in the state before the effective date of this section may
31 continue operating until the department creates a permit process and
32 sets a registration deadline.

33 (2) The department must annually issue a permit to each applicant
34 that meets the requirements for a transportation network company as
35 set forth in this chapter and pays an annual permit fee of five
36 thousand dollars to the department.

1 (3) The department must deposit the permit fees collected under
2 this section into the transportation network company account created
3 in section 23 of this act.

4 NEW SECTION. **Sec. 5.** Any transportation network company
5 operating in Washington state must maintain an agent for service of
6 process in the state.

7 NEW SECTION. **Sec. 6.** (1) On behalf of a transportation network
8 company driver, a transportation network company may charge a fare
9 for transportation network company services provided to any
10 transportation network company rider, but must disclose to the rider
11 the fare or fare calculation method on its web site or within its
12 digital network. Before a rider enters a transportation network
13 company vehicle, the transportation network company must provide, on
14 behalf of the transportation network company driver, either the fare
15 for the prearranged ride or the option to receive an estimated fare
16 for the prearranged ride.

17 (2) During a state of emergency, as declared by the governor or
18 the president of the United States, a transportation network company
19 may not charge a fare for transportation network company services
20 provided to any transportation network company rider that exceeds two
21 and one-half times the base fare.

22 NEW SECTION. **Sec. 7.** A transportation network company's digital
23 network or web site must display a photograph of the transportation
24 network company driver and the license plate number of the
25 transportation network company vehicle before the transportation
26 network company rider enters the vehicle.

27 NEW SECTION. **Sec. 8.** Within one week following the completion
28 of a trip, a transportation network company must transmit an
29 electronic receipt to the transportation network company rider on
30 behalf of the transportation network company driver that lists:

- 31 (1) The origin and destination of the trip;
32 (2) The total time and distance of the trip; and
33 (3) An itemization of the total fare paid, if any.

1 NEW SECTION. **Sec. 9.** A transportation network company driver is
2 an independent contractor and not an employee of the transportation
3 network company if all of the following conditions are met:

4 (1) The transportation network company does not unilaterally
5 prescribe specific hours during which a transportation network
6 company driver must be logged in to the transportation network
7 company's digital network;

8 (2) The transportation network company imposes no restrictions on
9 the transportation network company driver's ability to utilize a
10 digital network from any other transportation network company;

11 (3) The transportation network company does not restrict a
12 transportation network company driver from engaging in any other
13 occupation or business; and

14 (4) The transportation network company and transportation network
15 company driver agree in writing that the transportation network
16 company driver is an independent contractor with respect to the
17 transportation network company.

18 NEW SECTION. **Sec. 10.** (1) A transportation network company must
19 implement a zero tolerance policy regarding a transportation network
20 company driver's activities while accessing the transportation
21 network company's digital network. The zero tolerance policy must
22 address the use of drugs or alcohol while a transportation network
23 company driver is providing prearranged rides or is logged in to the
24 transportation network company's digital network but is not providing
25 prearranged rides.

26 (2) A transportation network company must provide notice of this
27 policy on its web site, as well as procedures to report a complaint
28 about a transportation network company driver with whom a
29 transportation network company rider was matched and whom the rider
30 reasonably suspects was under the influence of drugs or alcohol
31 during the course of the trip.

32 (3) Upon receipt of a complaint alleging a violation of the zero
33 tolerance policy, the transportation network company must suspend the
34 transportation network company driver's ability to accept trip
35 requests through the transportation network company's digital network
36 as soon as possible and conduct an investigation into the reported
37 incident. The suspension must last the duration of the investigation.
38 If the transportation network company determines that the
39 transportation network company driver violated the zero tolerance

1 policy, the transportation network company must take appropriate
2 action against the driver, including, at a minimum, suspending the
3 driver from the transportation network company's digital network
4 until the transportation network company determines that the driver
5 is compliant with the zero tolerance policy.

6 (4) A transportation network company must maintain records
7 relevant to the enforcement of the policy under this section for a
8 period of at least two years from the date that a transportation
9 network company rider complaint is received by the transportation
10 network company.

11 NEW SECTION. **Sec. 11.** (1) Before allowing an individual to
12 accept trip requests as a transportation network company driver
13 through a transportation network company's digital network:

14 (a) The individual must submit an application to the
15 transportation network company, which includes information regarding
16 his or her name, address, phone, age, driver's license number, motor
17 vehicle registration, automobile liability insurance, and other
18 information required by the transportation network company;

19 (b) The transportation network company, or a designated third
20 party on behalf of the transportation network company, that is either
21 nationally accredited or approved by the director, must conduct an
22 annual local and national criminal background check for the applicant
23 to include a review of:

24 (i) A multistate/multijurisdiction criminal records locator or
25 other similar commercial nationwide database with validation (primary
26 source search); and

27 (ii) The United States department of justice national sex
28 offender public web site; and

29 (c) The transportation network company, or designated third
30 party, must obtain and review a driving history research report for
31 the individual.

32 (2) A transportation network company must not permit an
33 individual to act as a transportation network company driver on its
34 digital network who:

35 (a) Has had more than three moving violations in the prior three-
36 year period, or one of the following major violations in the prior
37 three-year period:

38 (i) Attempting to elude the police pursuant to RCW 46.61.024;

39 (ii) Reckless driving pursuant to RCW 46.61.500; or

1 (iii) Driving on a suspended or revoked driver's license pursuant
2 to RCW 46.20.342 or 46.20.345;

3 (b) Has been convicted, within the past seven years, of:

4 (i) Any class A or B felony, as defined in Title 9A RCW;

5 (ii) Any violent offense as defined in RCW 9.94A.030, or serious
6 violent offense defined in RCW 9.94A.030;

7 (iii) Any most serious offense as defined in RCW 9.94A.030; or

8 (iv) Driving under the influence, hit and run, or any other
9 driving-related crime pursuant to RCW 46.61.500 through 46.61.540;

10 (c) Has been convicted of any sex offense as defined in RCW
11 9.94A.030 or is a match in the United States department of justice
12 national sex offender public web site;

13 (d) Does not possess a valid driver's license;

14 (e) Does not possess proof of automobile liability insurance for
15 the motor vehicle or vehicles used to provide prearranged rides;

16 (f) Is not at least twenty years of age; or

17 (g) Has not self-certified that he or she is physically and
18 mentally fit to be a transportation network company driver.

19 (3) Subsection (2)(a) and (b) of this section apply to any
20 conviction of any offense committed in another jurisdiction that
21 includes all of the elements of any of the offenses described or
22 defined in subsection (2)(a) and (b) of this section.

23 (4) A driver providing transportation network company services
24 who is not in compliance with subsection (1)(b), (2), or (3) of this
25 section commits a civil infraction subject to a monetary penalty of
26 fifty dollars. A state or local law enforcement officer may issue a
27 citation for any such violation. If such a driver is cited for a
28 violation under this subsection, every transportation network company
29 that permits such a driver to access the transportation network
30 company's digital network to provide transportation network company
31 services is subject to a fine of five hundred dollars.

32 NEW SECTION. **Sec. 12.** (1) A transportation network company must
33 require that any motor vehicle that a transportation network company
34 driver will use to provide prearranged rides:

35 (a) Is not more than twelve years old as determined by the model
36 year of the vehicle;

37 (b) Meets the emissions requirements for motor vehicles; and

38 (c) Has received a safety inspection by a third party in the last
39 year that includes the following components:

- 1 (i) Foot brakes;
- 2 (ii) Parking brakes;
- 3 (iii) Steering mechanism;
- 4 (iv) Windshield;
- 5 (v) Rear window and other glass;
- 6 (vi) Windshield wipers;
- 7 (vii) All exterior lights, including headlights, taillights,
- 8 brake lights, turn indicator lights, and hazard lights;
- 9 (viii) Interior dome light;
- 10 (ix) Heating and cooling;
- 11 (x) Front seat adjustment mechanism;
- 12 (xi) Doors (open, close, lock);
- 13 (xii) Horn;
- 14 (xiii) Instrument panel and gauges;
- 15 (xiv) Bumpers;
- 16 (xv) Muffler and exhaust system;
- 17 (xvi) Condition of tires, including tread depth;
- 18 (xvii) Interior and exterior mirrors; and
- 19 (xiii) Safety belts for driver and passenger(s).

20 (2) All transportation network company vehicles must display
21 trade dress that is visible to the rider when outside the vehicle
22 when providing transportation network company services.

23 (3) A transportation network company must inform a transportation
24 network company driver of the driver's responsibility to comply with
25 all applicable safety recalls issued by a vehicle manufacturer or the
26 national highway traffic safety administration for each motor vehicle
27 the driver will use to provide prearranged rides.

28 (4)(a) A driver providing transportation network company services
29 who is not in compliance with subsection (1)(c) of this section
30 commits a civil infraction subject to a monetary penalty of fifty
31 dollars. A state or local law enforcement officer may issue a
32 citation for any such violation. If such a driver is cited for a
33 violation under this subsection, every transportation network company
34 that permits such a driver to access the transportation network
35 company's digital network to provide transportation network company
36 services is subject to a fine of five hundred dollars.

37 (b) A driver providing transportation network company services
38 who violates subsection (2) of this section commits a civil
39 infraction. A state or local law enforcement officer may issue a
40 citation for any such violation and may assess a monetary penalty of

1 one hundred dollars for a first offense, five hundred dollars for a
2 second offense, and one thousand dollars for a third or subsequent
3 offense.

4 NEW SECTION. **Sec. 13.** (1) A transportation network company
5 driver may not:

6 (a) Solicit or accept a trip request to provide transportation
7 network company services other than a trip request arranged through a
8 transportation network company's digital network;

9 (b) Provide transportation network company services for more than
10 fourteen consecutive hours in a twenty-four hour period; or

11 (c) Allow any other individual to use that driver's access to a
12 transportation network company's digital network.

13 (2)(a) A driver providing transportation network company services
14 who violates subsection (1)(a) of this section or the zero tolerance
15 policy commits a civil infraction. A state or local law enforcement
16 officer may issue a citation for any such violation and may assess a
17 monetary penalty of five hundred dollars for a first offense and one
18 thousand dollars for a second or subsequent offense.

19 (b) A driver providing transportation network company services
20 who violates subsection (1)(b) of this section commits a civil
21 infraction. A state or local law enforcement officer may issue a
22 citation for any such violation and may assess a monetary penalty of
23 one hundred dollars for a first offense, five hundred dollars for a
24 second offense, and one thousand dollars for a third or subsequent
25 offense.

26 (c) A driver providing transportation network company services
27 who violates subsection (1)(c) of this section or the zero tolerance
28 policy commits a civil infraction. A state or local law enforcement
29 officer may issue a citation for any such violation and may assess a
30 monetary penalty of five hundred dollars for a first offense, seven
31 hundred fifty dollars for a second offense, and one thousand dollars
32 for a third or subsequent offense.

33 NEW SECTION. **Sec. 14.** (1) A transportation network company must
34 adopt a policy of nondiscrimination on the basis of destination,
35 race, color, national origin, religious belief or affiliation, sex,
36 disability, age, sexual orientation, or gender identity with respect
37 to transportation network company riders and potential riders and
38 notify transportation network company drivers of such policy.

1 (2) A transportation network company driver must comply with all
2 applicable laws regarding nondiscrimination against transportation
3 network company riders or potential riders on the basis of race,
4 color, national origin, religious belief or affiliation, sex,
5 disability, age, sexual orientation, or gender identity.

6 (3) A transportation network company driver must comply with all
7 applicable laws relating to the transportation of service animals.

8 (4) A transportation network company may not impose additional
9 charges for providing services to persons with disabilities because
10 of those disabilities.

11 (5) A driver providing transportation network company services
12 who violates this section commits a civil infraction. A state or
13 local law enforcement officer may issue a citation for any such
14 violation and may assess a monetary penalty of five hundred dollars
15 for a first offense, seven hundred fifty dollars for a second
16 offense, and one thousand dollars for a third or subsequent offense.

17 NEW SECTION. **Sec. 15.** A transportation network company must
18 maintain the following records:

19 (1) Individual trip records for at least three years from the end
20 of the calendar year in which each trip was provided; and

21 (2) Individual records of transportation network company drivers
22 at least until the end of the calendar year marking the three-year
23 anniversary of the date on which a transportation network company
24 driver's relationship with the transportation network company has
25 ended.

26 NEW SECTION. **Sec. 16.** (1) For the sole purpose of verifying
27 that a transportation network company is in compliance with the
28 requirements of this chapter and no more than biannually, the
29 department, or the local authority for a city with a population of
30 more than five hundred thousand or a county with a population of more
31 than one million, may review a sample of records that the
32 transportation network company is required to maintain under this
33 chapter. The sample of records must be chosen randomly by the
34 department or local authority in a manner agreeable to both parties.
35 Any audit must take place at a mutually agreed location in the state
36 of Washington. Any record sample furnished to the department or local
37 authority may exclude information that would tend to identify
38 specific transportation network company drivers or riders.

1 (2) Any records inspected under this chapter are designated
2 confidential and are not subject to disclosure to a third party by
3 the department or local authority without prior written consent of
4 the transportation network company and the transportation network
5 company driver.

6 NEW SECTION. **Sec. 17.** (1)(a) Each prearranged ride provided by
7 a transportation network company driver to a transportation network
8 company rider while on the transportation network company's digital
9 network must be assessed a ten-cent per trip passenger surcharge fee
10 to cover the costs of enforcement and regulation of state
11 transportation network company licensing and to be distributed to
12 local political divisions of the state.

13 (b) The director may, by rule adopted under section 21 of this
14 act, review the per trip surcharge fee imposed under (a) of this
15 subsection not more frequently than annually, and increase the fee by
16 rule to cover costs related to the continuing administration and
17 enforcement of this chapter by the department, or by local
18 authorities as permitted under this chapter, provided that any
19 increase is limited to the extent such costs are not covered by the
20 fee.

21 (2) Using geographic information system data, a transportation
22 network company must determine whether each prearranged ride
23 originated within the incorporated boundaries of a municipality, or
24 outside of the incorporated boundaries of a municipality and within
25 the boundaries of a county of this state.

26 (3) Within thirty days of the end of each calendar quarter, a
27 transportation network company must submit to the department:

28 (a) The total amount of passenger surcharge fees collected by a
29 transportation network company on behalf of transportation network
30 company drivers; and

31 (b) For trips that originated in a municipality or unincorporated
32 county, a report listing the percentage of the yearly total amount of
33 passenger surcharge fees from trips that originated in each
34 municipality or unincorporated county during the reporting period.

35 (4) The department must retain such amount of the passenger
36 surcharge fee collected under subsection (3)(a) of this section as is
37 necessary to cover the expenses borne by the department derived from
38 the: (a) Regulation and registration of transportation network
39 companies; and (b) the collection, remittance, and distribution of

1 passenger surcharge fees under this section. The department must
2 deposit these funds in the transportation network company account
3 created in section 23 of this act.

4 (5) Within sixty days of the end of each calendar quarter, the
5 department must distribute the remaining portion of the total
6 passenger surcharge fees collected under subsection (3)(a) of this
7 section less the amount retained under subsection (4) of this section
8 to each municipality or county where a trip originated during the
9 reporting period. The distribution to each municipality or county
10 must be proportionate to the percentage of the yearly total amount of
11 surcharge fees that originated in each municipality or county. The
12 funds collected by each municipality or county under this subsection
13 must be used to fund enforcement activities by the municipalities and
14 counties relating to this chapter.

15 NEW SECTION. **Sec. 18.** (1) In addition to the surcharge fee
16 assessed under section 17 of this act, each prearranged ride provided
17 by a transportation network company driver to a transportation
18 network company rider that originates in a city with a population of
19 two hundred thousand or more or in a county with a population of one
20 million or more must be assessed a ten cent per trip surcharge fee to
21 offset costs associated with improving transportation options for
22 individuals with disabilities.

23 (2) The surcharge fee assessed under subsection (1) of this
24 section may be used to provide for, but is not limited to,
25 reimbursement for: Costs associated with converting or purchasing a
26 vehicle to be used as a taxicab or transportation network company
27 vehicle that is fully wheelchair accessible by ramp or lift; costs
28 for a transportation network company, taxicab company, or other for
29 hire vehicle company to provide wheelchair-accessible vehicle rides
30 to customers when the cost to provide the ride exceeds the cost
31 charged to the customer; or extra fuel and maintenance costs.

32 (3) The surcharge fee assessed under subsection (1) of this
33 section must be remitted directly to each applicable city and county
34 within thirty days of the end of each calendar quarter.

35 NEW SECTION. **Sec. 19.** (1) If the department determines, after
36 notice and a hearing, that a transportation network company is in
37 violation of this chapter or any rule adopted under this chapter, the
38 department must issue a monetary penalty or suspend or revoke a

1 transportation network company permit, or both, in accordance with
2 this chapter. In determining the amount of the monetary penalty, the
3 department must consider the size of the transportation network
4 company based on the number of intrastate trips provided by the
5 transportation network company in the previous calendar year, the
6 gravity of the violation, the degree to which the transportation
7 network company exercised good faith in attempting to achieve
8 compliance or to remedy noncompliance, and any previous violations by
9 the transportation network company cited by the department.

10 (2) The department must adopt rules to establish a process for
11 the administrative appeal of any penalty, suspension, or revocation
12 imposed by the department in accordance with this section.

13 NEW SECTION. **Sec. 20.** The uniform regulation of business and
14 professions act, chapter 18.235 RCW, governs unlicensed practice, the
15 issuance and denial of licenses, and the discipline of licensees
16 under this chapter.

17 NEW SECTION. **Sec. 21.** The director may adopt rules consistent
18 with and as necessary to carry out this chapter.

19 **Sec. 22.** RCW 42.56.270 and 2016 sp.s. c 9 s 3, 2016 sp.s. c 8 s
20 1, and 2016 c 178 s 1 are each reenacted and amended to read as
21 follows:

22 The following financial, commercial, and proprietary information
23 is exempt from disclosure under this chapter:

24 (1) Valuable formulae, designs, drawings, computer source code or
25 object code, and research data obtained by any agency within five
26 years of the request for disclosure when disclosure would produce
27 private gain and public loss;

28 (2) Financial information supplied by or on behalf of a person,
29 firm, or corporation for the purpose of qualifying to submit a bid or
30 proposal for (a) a ferry system construction or repair contract as
31 required by RCW 47.60.680 through 47.60.750 or (b) highway
32 construction or improvement as required by RCW 47.28.070;

33 (3) Financial and commercial information and records supplied by
34 private persons pertaining to export services provided under chapters
35 43.163 and 53.31 RCW, and by persons pertaining to export projects
36 under RCW 43.23.035;

1 (4) Financial and commercial information and records supplied by
2 businesses or individuals during application for loans or program
3 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
4 43.168 RCW, or during application for economic development loans or
5 program services provided by any local agency;

6 (5) Financial information, business plans, examination reports,
7 and any information produced or obtained in evaluating or examining a
8 business and industrial development corporation organized or seeking
9 certification under chapter 31.24 RCW;

10 (6) Financial and commercial information supplied to the state
11 investment board by any person when the information relates to the
12 investment of public trust or retirement funds and when disclosure
13 would result in loss to such funds or in private loss to the
14 providers of this information;

15 (7) Financial and valuable trade information under RCW 51.36.120;

16 (8) Financial, commercial, operations, and technical and research
17 information and data submitted to or obtained by the clean Washington
18 center in applications for, or delivery of, program services under
19 chapter 70.95H RCW;

20 (9) Financial and commercial information requested by the public
21 stadium authority from any person or organization that leases or uses
22 the stadium and exhibition center as defined in RCW 36.102.010;

23 (10)(a) Financial information, including but not limited to
24 account numbers and values, and other identification numbers supplied
25 by or on behalf of a person, firm, corporation, limited liability
26 company, partnership, or other entity related to an application for a
27 horse racing license submitted pursuant to RCW 67.16.260(1)(b),
28 marijuana producer, processor, or retailer license, liquor license,
29 gambling license, or lottery retail license;

30 (b) Internal control documents, independent auditors' reports and
31 financial statements, and supporting documents: (i) Of house-banked
32 social card game licensees required by the gambling commission
33 pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted
34 by tribes with an approved tribal/state compact for class III gaming;

35 (11) Proprietary data, trade secrets, or other information that
36 relates to: (a) A vendor's unique methods of conducting business; (b)
37 data unique to the product or services of the vendor; or (c)
38 determining prices or rates to be charged for services, submitted by
39 any vendor to the department of social and health services for

1 purposes of the development, acquisition, or implementation of state
2 purchased health care as defined in RCW 41.05.011;

3 (12)(a) When supplied to and in the records of the department of
4 commerce:

5 (i) Financial and proprietary information collected from any
6 person and provided to the department of commerce pursuant to RCW
7 43.330.050(8); and

8 (ii) Financial or proprietary information collected from any
9 person and provided to the department of commerce or the office of
10 the governor in connection with the siting, recruitment, expansion,
11 retention, or relocation of that person's business and until a siting
12 decision is made, identifying information of any person supplying
13 information under this subsection and the locations being considered
14 for siting, relocation, or expansion of a business;

15 (b) When developed by the department of commerce based on
16 information as described in (a)(i) of this subsection, any work
17 product is not exempt from disclosure;

18 (c) For the purposes of this subsection, "siting decision" means
19 the decision to acquire or not to acquire a site;

20 (d) If there is no written contact for a period of sixty days to
21 the department of commerce from a person connected with siting,
22 recruitment, expansion, retention, or relocation of that person's
23 business, information described in (a)(ii) of this subsection will be
24 available to the public under this chapter;

25 (13) Financial and proprietary information submitted to or
26 obtained by the department of ecology or the authority created under
27 chapter 70.95N RCW to implement chapter 70.95N RCW;

28 (14) Financial, commercial, operations, and technical and
29 research information and data submitted to or obtained by the life
30 sciences discovery fund authority in applications for, or delivery
31 of, grants under chapter 43.350 RCW, to the extent that such
32 information, if revealed, would reasonably be expected to result in
33 private loss to the providers of this information;

34 (15) Financial and commercial information provided as evidence to
35 the department of licensing as required by RCW 19.112.110 or
36 19.112.120, except information disclosed in aggregate form that does
37 not permit the identification of information related to individual
38 fuel licensees;

1 (16) Any production records, mineral assessments, and trade
2 secrets submitted by a permit holder, mine operator, or landowner to
3 the department of natural resources under RCW 78.44.085;

4 (17)(a) Farm plans developed by conservation districts, unless
5 permission to release the farm plan is granted by the landowner or
6 operator who requested the plan, or the farm plan is used for the
7 application or issuance of a permit;

8 (b) Farm plans developed under chapter 90.48 RCW and not under
9 the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject
10 to RCW 42.56.610 and 90.64.190;

11 (18) Financial, commercial, operations, and technical and
12 research information and data submitted to or obtained by a health
13 sciences and services authority in applications for, or delivery of,
14 grants under RCW 35.104.010 through 35.104.060, to the extent that
15 such information, if revealed, would reasonably be expected to result
16 in private loss to providers of this information;

17 (19) Information gathered under chapter 19.85 RCW or RCW
18 34.05.328 that can be identified to a particular business;

19 (20) Financial and commercial information submitted to or
20 obtained by the University of Washington, other than information the
21 university is required to disclose under RCW 28B.20.150, when the
22 information relates to investments in private funds, to the extent
23 that such information, if revealed, would reasonably be expected to
24 result in loss to the University of Washington consolidated endowment
25 fund or to result in private loss to the providers of this
26 information;

27 (21) Market share data submitted by a manufacturer under RCW
28 70.95N.190(4);

29 (22) Financial information supplied to the department of
30 financial institutions or to a portal under RCW 21.20.883, when filed
31 by or on behalf of an issuer of securities for the purpose of
32 obtaining the exemption from state securities registration for small
33 securities offerings provided under RCW 21.20.880 or when filed by or
34 on behalf of an investor for the purpose of purchasing such
35 securities;

36 (23) Unaggregated or individual notices of a transfer of crude
37 oil that is financial, proprietary, or commercial information,
38 submitted to the department of ecology pursuant to RCW
39 90.56.565(1)(a), and that is in the possession of the department of

1 ecology or any entity with which the department of ecology has shared
2 the notice pursuant to RCW 90.56.565;

3 (24) Financial institution and retirement account information,
4 and building security plan information, supplied to the liquor and
5 cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and
6 69.50.345, when filed by or on behalf of a licensee or prospective
7 licensee for the purpose of obtaining, maintaining, or renewing a
8 license to produce, process, transport, or sell marijuana as allowed
9 under chapter 69.50 RCW; (~~and~~))

10 (25) Marijuana transport information, vehicle and driver
11 identification data, and account numbers or unique access identifiers
12 issued to private entities for traceability system access, submitted
13 by an individual or business to the liquor and cannabis board under
14 the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and
15 69.50.345 for the purpose of marijuana product traceability.
16 Disclosure to local, state, and federal officials is not considered
17 public disclosure for purposes of this section; (~~and~~))

18 (26) Financial and commercial information submitted to or
19 obtained by the retirement board of any city that is responsible for
20 the management of an employees' retirement system pursuant to the
21 authority of chapter 35.39 RCW, when the information relates to
22 investments in private funds, to the extent that such information, if
23 revealed, would reasonably be expected to result in loss to the
24 retirement fund or to result in private loss to the providers of this
25 information except that (a) the names and commitment amounts of the
26 private funds in which retirement funds are invested and (b) the
27 aggregate quarterly performance results for a retirement fund's
28 portfolio of investments in such funds are subject to disclosure;
29 (~~and~~))

30 (27) Proprietary financial, commercial, operations, and technical
31 and research information and data submitted to or obtained by the
32 liquor and cannabis board in applications for marijuana research
33 licenses under RCW 69.50.372, or in reports submitted by marijuana
34 research licensees in accordance with rules adopted by the liquor and
35 cannabis board under RCW 69.50.372; and

36 (28) Any records, including proprietary financial, commercial,
37 operations, and personal information and data submitted to or
38 obtained by the department of licensing or any municipality or county
39 under chapter 46.--- RCW (the new chapter created in section 37 of
40 this act).

1 NEW SECTION. **Sec. 23.** The transportation network company
2 account is created in the custody of the state treasurer. All
3 receipts from sections 4(2) and 17(4) of this act must be deposited
4 into the account. Expenditures from the account may be used only for
5 the purposes provided in section 17(4) of this act. Only the director
6 or the director's designee may authorize expenditures from the
7 account. The account is subject to allotment procedures under chapter
8 43.88 RCW, but an appropriation is not required for expenditures.

9 **Sec. 24.** RCW 43.79A.040 and 2016 c 203 s 2, 2016 c 173 s 10,
10 2016 c 69 s 21, and 2016 c 39 s 7 are each reenacted and amended to
11 read as follows:

12 (1) Money in the treasurer's trust fund may be deposited,
13 invested, and reinvested by the state treasurer in accordance with
14 RCW 43.84.080 in the same manner and to the same extent as if the
15 money were in the state treasury, and may be commingled with moneys
16 in the state treasury for cash management and cash balance purposes.

17 (2) All income received from investment of the treasurer's trust
18 fund must be set aside in an account in the treasury trust fund to be
19 known as the investment income account.

20 (3) The investment income account may be utilized for the payment
21 of purchased banking services on behalf of treasurer's trust funds
22 including, but not limited to, depository, safekeeping, and
23 disbursement functions for the state treasurer or affected state
24 agencies. The investment income account is subject in all respects to
25 chapter 43.88 RCW, but no appropriation is required for payments to
26 financial institutions. Payments must occur prior to distribution of
27 earnings set forth in subsection (4) of this section.

28 (4)(a) Monthly, the state treasurer must distribute the earnings
29 credited to the investment income account to the state general fund
30 except under (b), (c), and (d) of this subsection.

31 (b) The following accounts and funds must receive their
32 proportionate share of earnings based upon each account's or fund's
33 average daily balance for the period: The 24/7 sobriety account, the
34 Washington promise scholarship account, the Washington advanced
35 college tuition payment program account, the Washington college
36 savings program account, the accessible communities account, the
37 Washington achieving a better life experience program account, the
38 community and technical college innovation account, the agricultural
39 local fund, the American Indian scholarship endowment fund, the

1 foster care scholarship endowment fund, the foster care endowed
2 scholarship trust fund, the contract harvesting revolving account,
3 the Washington state combined fund drive account, the commemorative
4 works account, the county enhanced 911 excise tax account, the toll
5 collection account, the developmental disabilities endowment trust
6 fund, the energy account, the fair fund, the family leave insurance
7 account, the food animal veterinarian conditional scholarship
8 account, the fruit and vegetable inspection account, the future
9 teachers conditional scholarship account, the game farm alternative
10 account, the GET ready for math and science scholarship account, the
11 Washington global health technologies and product development
12 account, the grain inspection revolving fund, the industrial
13 insurance rainy day fund, the juvenile accountability incentive
14 account, the law enforcement officers' and firefighters' plan 2
15 expense fund, the local tourism promotion account, the multiagency
16 permitting team account, the pilotage account, the produce railcar
17 pool account, the regional transportation investment district
18 account, the rural rehabilitation account, the Washington sexual
19 assault kit account, the stadium and exhibition center account, the
20 youth athletic facility account, the self-insurance revolving fund,
21 the children's trust fund, the transportation network company
22 account, the Washington horse racing commission Washington bred
23 owners' bonus fund and breeder awards account, the Washington horse
24 racing commission class C purse fund account, the individual
25 development account program account, the Washington horse racing
26 commission operating account, the life sciences discovery fund, the
27 Washington state heritage center account, the reduced cigarette
28 ignition propensity account, the center for childhood deafness and
29 hearing loss account, the school for the blind account, the
30 Millersylvania park trust fund, the public employees' and retirees'
31 insurance reserve fund, and the radiation perpetual maintenance fund.

32 (c) The following accounts and funds must receive eighty percent
33 of their proportionate share of earnings based upon each account's or
34 fund's average daily balance for the period: The advanced right-of-
35 way revolving fund, the advanced environmental mitigation revolving
36 account, the federal narcotics asset forfeitures account, the high
37 occupancy vehicle account, the local rail service assistance account,
38 and the miscellaneous transportation programs account.

39 (d) Any state agency that has independent authority over accounts
40 or funds not statutorily required to be held in the custody of the

1 state treasurer that deposits funds into a fund or account in the
2 custody of the state treasurer pursuant to an agreement with the
3 office of the state treasurer shall receive its proportionate share
4 of earnings based upon each account's or fund's average daily balance
5 for the period.

6 (5) In conformance with Article II, section 37 of the state
7 Constitution, no trust accounts or funds shall be allocated earnings
8 without the specific affirmative directive of this section.

9 NEW SECTION. **Sec. 25.** (1) Except as provided otherwise in this
10 section, the state of Washington fully occupies and preempts: The
11 entire field of regulation of transportation network company
12 licensing and permits for transportation network companies and
13 transportation network company drivers; all requirements,
14 applications, certifications, examinations, and background checks for
15 transportation network company drivers, and the processing and
16 adjudication of each; and all rate, entry, or operational
17 requirements for transportation network companies within the
18 boundaries of the state. Any political subdivision in this state may
19 enforce only those laws and ordinances relating to the regulation of
20 such fields concerning the transportation network company industry
21 that are specifically authorized by state law and are consistent with
22 this chapter. This section is not intended to limit, extend, address,
23 affect, or permit the authority of any political subdivision to
24 impose generally applicable requirements upon transportation network
25 companies within its jurisdiction, such as obtaining a business
26 license. Local laws and ordinances that are inconsistent with, more
27 restrictive than, or exceed the requirements of this chapter may not
28 be enacted and are preempted and repealed, regardless of the code,
29 charter, or home rule status of such political subdivision.

30 (2) This section does not limit the authority of a city with a
31 population of five hundred thousand or more or a county with a
32 population of one million or more to enforce this chapter, including
33 any rules adopted by the department under this chapter, as applicable
34 to transportation network companies, transportation network company
35 drivers, and transportation network company vehicles.

36 (3) Any public entity operating a commercial airport facility may
37 fully regulate all transportation network company activities related
38 to the provision of transportation network company services at the
39 airport facility or on airport facility property including, but not

1 limited to, rate, entry, and operational requirements and the
2 enforcement of the public entity's rules; provided, however, that the
3 state maintains the authority as set forth in sections 3, 4, 5, 7, 8,
4 9, 10, 11, 12 (1)(a) and (c), (2), and (3), and 13 of this act. This
5 chapter does not limit the authority of a public entity operating an
6 airport facility from requiring a transportation network company
7 permitted under section 4 of this act to enter into a contract or
8 agreement governing the operations of the transportation network
9 company on airport facility property.

10 (4) This chapter does not affect the authority of a municipality,
11 county, or other local governmental entity from regulating and
12 enforcing rules relating to traffic flow, traffic patterns, and
13 roadways, including the public right-of-way, to ensure public safety
14 and convenience and, if applicable, imposing impact fees.

15 **Sec. 26.** RCW 48.177.010 and 2015 c 236 s 2 are each amended to
16 read as follows:

17 (1)(a) Before being used to provide (~~commercial~~) transportation
18 network company services, every personal vehicle must be covered by a
19 primary automobile insurance policy that specifically covers
20 (~~commercial~~) transportation network company services. However, the
21 insurance coverage requirements of this section are alternatively
22 satisfied by securing coverage pursuant to chapter 46.72 or 46.72A
23 RCW that covers the personal vehicle being used to provide
24 (~~commercial~~) transportation network company services and that is in
25 effect twenty-four hours per day, seven days per week. Except as
26 provided in subsection (2) of this section, a (~~commercial~~)
27 transportation (~~services provider~~) network company must secure this
28 policy for every personal vehicle used to provide (~~commercial~~)
29 transportation network company services. For purposes of this
30 section, a "primary automobile insurance policy" is not a private
31 passenger automobile insurance policy.

32 (b) The primary automobile insurance policy required under this
33 section must provide coverage, as specified in this subsection
34 (1)(b), at all times the driver is logged in to a (~~commercial~~)
35 transportation (~~services provider's~~) network company's digital
36 network (~~or software application~~) and at all times a passenger is
37 in (~~the~~) a transportation network company vehicle as part of a
38 prearranged ride.

1 (i) The primary automobile insurance policy required under this
2 subsection must provide the following coverage during (~~commercial~~)
3 transportation network company services applicable during the period
4 before a driver accepts a requested ride through a digital network
5 (~~or software application~~):

6 (A) Liability coverage in an amount no less than fifty thousand
7 dollars per person for bodily injury, one hundred thousand dollars
8 per accident for bodily injury of all persons, and thirty thousand
9 dollars for damage to property;

10 (B) Underinsured motorist coverage to the extent required under
11 RCW 48.22.030; and

12 (C) Personal injury protection coverage to the extent required
13 under RCW 48.22.085 and 48.22.095.

14 (ii) The primary automobile insurance policy required under this
15 subsection must provide the following coverage, applicable during the
16 period of a prearranged ride:

17 (A) Combined single limit liability coverage in the amount of one
18 million dollars for death, personal injury, and property damage;

19 (B) Underinsured motorist coverage in the amount of one million
20 dollars; and

21 (C) Personal injury protection coverage to the extent required
22 under RCW 48.22.085 and 48.22.095.

23 (2)(a) As an alternative to the provisions of subsection (1) of
24 this section, if the office of the insurance commissioner approves
25 the offering of an insurance policy that recognizes that a person is
26 acting as a transportation network company driver (~~for a commercial~~
27 ~~transportation services provider~~) and using a personal vehicle to
28 provide (~~commercial~~) transportation network company services, a
29 driver may secure a primary automobile insurance policy covering a
30 personal vehicle and providing the same coverage as required in
31 subsection (1) of this section. The policy coverage may be in the
32 form of a rider to, or endorsement of, the driver's private passenger
33 automobile insurance policy only if approved as such by the office of
34 the insurance commissioner.

35 (b) If the primary automobile insurance policy maintained by a
36 driver to meet the obligation of this section does not provide
37 coverage for any reason, including that the policy lapsed or did not
38 exist, the (~~commercial~~) transportation (~~services provider~~)
39 network company must provide the coverage required under this section
40 beginning with the first dollar of a claim.

1 (c) The primary automobile insurance policy required under this
2 subsection and subsection (1) of this section may be secured by any
3 of the following:

4 (i) The ~~((commercial))~~ transportation ~~((services—provider))~~
5 network company as provided under subsection (1) of this section;

6 (ii) The transportation network company driver as provided under
7 (a) of this subsection; or

8 (iii) A combination of both the ~~((commercial))~~ transportation
9 ~~((services—provider))~~ network company and the transportation network
10 company driver.

11 (3) The insurer or insurers providing coverage under subsections
12 (1) and (2) of this section are the only insurers having the duty to
13 defend any liability claim from an accident occurring while
14 ~~((commercial))~~ transportation network company services are being
15 provided.

16 (4) In addition to the requirements in subsections (1) and (2) of
17 this section, before allowing a person to provide ~~((commercial))~~
18 transportation network company services as a transportation network
19 company driver, a ~~((commercial))~~ transportation ~~((services—provider))~~
20 network company must provide written proof to the driver that the
21 driver is covered by a primary automobile insurance policy that meets
22 the requirements of this section. Alternatively, if a transportation
23 network company driver purchases a primary automobile insurance
24 policy as allowed under subsection (2) of this section, the
25 ~~((commercial))~~ transportation ~~((services—provider))~~ network company
26 must verify that the driver has done so.

27 (5) A primary automobile insurance policy required under
28 subsection (1) or (2) of this section may be placed with an insurer
29 licensed under this title to provide insurance in the state of
30 Washington or as an eligible surplus line insurance policy as
31 described in RCW 48.15.040.

32 (6) Insurers that write automobile insurance in Washington may
33 exclude any and all coverage afforded under a private passenger
34 automobile insurance policy issued to an owner or operator of a
35 personal vehicle for any loss or injury that occurs while a
36 transportation network company driver ~~((for—a—commercial~~
37 ~~transportation—services—provider))~~ is logged in to a ~~((commercial))~~
38 transportation ~~((services—provider's))~~ network company's digital
39 network or while a transportation network company driver provides a
40 prearranged ride. This right to exclude all coverage may apply to any

1 coverage included in a private passenger automobile insurance policy
2 including, but not limited to:

- 3 (a) Liability coverage for bodily injury and property damage;
- 4 (b) Personal injury protection coverage;
- 5 (c) Underinsured motorist coverage;
- 6 (d) Medical payments coverage;
- 7 (e) Comprehensive physical damage coverage; and
- 8 (f) Collision physical damage coverage.

9 (7) Nothing in this section shall be construed to require a
10 private passenger automobile insurance policy to provide primary or
11 excess coverage or a duty to defend for the period of time in which a
12 transportation network company driver is logged in to a
13 ~~((commercial))~~ transportation ~~((services—provider's))~~ network
14 company's digital network ~~((or—software—application))~~ or while the
15 driver is engaged in a prearranged ride or the driver otherwise uses
16 a vehicle to transport passengers for compensation.

17 (8) Insurers that exclude coverage under subsection (6) of this
18 section have no duty to defend or indemnify any claim expressly
19 excluded under subsection (6) of this section. Nothing in this
20 section shall be deemed to invalidate or limit an exclusion contained
21 in a policy, including any policy in use or approved for use in
22 Washington state before July 24, 2015, that excludes coverage for
23 vehicles used to carry persons or property for a charge or available
24 for hire by the public.

25 (9) An exclusion exercised by an insurer in subsection (6) of
26 this section applies to any coverage selected or rejected by a named
27 insured under RCW 48.22.030 and 48.22.085. The purchase of a rider or
28 endorsement by a transportation network company driver under
29 subsection (2)(a) of this section does not require a separate
30 coverage rejection under RCW 48.22.030 or 48.22.085.

31 (10) If more than one insurance policy provides valid and
32 collectible coverage for a loss arising out of an occurrence
33 involving a motor vehicle operated by a transportation network
34 company driver, the responsibility for the claim must be divided as
35 follows:

36 (a) Except as provided otherwise under subsection (2)(c) of this
37 section, if the driver has been matched with a passenger and is
38 traveling to pick up the passenger, or the driver is providing
39 transportation network company services to a passenger, the
40 ~~((commercial))~~ transportation ~~((services—provider))~~ network company

1 that matched the driver and passenger must provide insurance
2 coverage; or

3 (b) If the driver is logged in to the digital network (~~(or~~
4 ~~software application)~~) of more than one (~~(commercial)~~) transportation
5 (~~(services provider)~~) network company but has not been matched with a
6 passenger, the liability must be divided equally among all of the
7 applicable insurance policies that specifically provide coverage for
8 (~~(commercial)~~) transportation network company services.

9 (11) In an accident or claims coverage investigation, a
10 (~~(commercial)~~) transportation (~~(services provider)~~) network company
11 or its insurer must cooperate with a private passenger automobile
12 insurance policy insurer and other insurers that are involved in the
13 claims coverage investigation to facilitate the exchange of
14 information, including the provision of (a) dates and times at which
15 an accident occurred that involved a participating transportation
16 network company driver and (b) within ten business days after
17 receiving a request, a copy of the provider's electronic record
18 showing the precise times that the participating driver logged on and
19 off the provider's digital network (~~(or software application)~~) on the
20 day the accident or other loss occurred. The (~~(commercial)~~)
21 transportation (~~(services provider)~~) network company or its insurer
22 must retain all data, communications, or documents related to
23 insurance coverage or accident details for a period of not less than
24 the applicable statutes of limitation, plus two years from the date
25 of an accident to which those records pertain.

26 (12) This section does not modify or abrogate any otherwise
27 applicable insurance requirement set forth in this title.

28 (13) After July 1, 2016, an insurance company regulated under
29 this title may not deny an otherwise covered claim arising
30 exclusively out of the personal use of the private passenger
31 automobile solely on the basis that the insured, at other times, used
32 the private passenger automobile covered by the policy to provide
33 (~~(commercial)~~) transportation network company services.

34 (14) If an insurer for a (~~(commercial)~~) transportation (~~(services~~
35 ~~provider)~~) network company makes a payment for a claim covered under
36 comprehensive coverage or collision coverage, the (~~(commercial)~~)
37 transportation (~~(services provider)~~) network company must cause its
38 insurer to issue the payment directly to the business repairing the
39 vehicle or jointly to the owner of the vehicle and the primary
40 lienholder on the covered vehicle.

1 (15)(a) To be eligible for securing a primary automobile
2 insurance policy under this section, a ~~((commercial))~~ transportation
3 ~~((services—provider))~~ network company must make the following
4 disclosures in writing to a prospective driver in the prospective
5 driver's terms of service:

6 WHILE OPERATING ON THE DIGITAL NETWORK ~~((OR—SOFTWARE~~
7 ~~APPLICATION))~~ OF THE ~~((COMMERCIAL))~~ TRANSPORTATION ~~((SERVICES~~
8 ~~PROVIDER))~~ NETWORK COMPANY, YOUR PRIVATE PASSENGER AUTOMOBILE
9 INSURANCE POLICY MIGHT NOT AFFORD LIABILITY, UNDERINSURED MOTORIST,
10 PERSONAL INJURY PROTECTION, COMPREHENSIVE, OR COLLISION COVERAGE,
11 DEPENDING ON THE TERMS OF THE POLICY.

12 IF THE VEHICLE THAT YOU PLAN TO USE TO PROVIDE ~~((COMMERCIAL))~~
13 TRANSPORTATION NETWORK COMPANY SERVICES FOR OUR COMPANY HAS A LIEN
14 AGAINST IT, YOU MUST NOTIFY THE LIENHOLDER THAT YOU WILL BE USING THE
15 VEHICLE FOR ~~((COMMERCIAL))~~ TRANSPORTATION NETWORK COMPANY SERVICES
16 THAT MAY VIOLATE THE TERMS OF YOUR CONTRACT WITH THE LIENHOLDER.

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

19 (16) A driver providing transportation network company services
20 who is not in compliance with this section commits a civil infraction
21 subject to a monetary penalty of fifty dollars. A state or local law
22 enforcement officer may issue a citation for any such violation. If
23 such a driver is cited for a violation under this subsection, every
24 transportation network company that permits such a driver to access
25 the transportation network company's digital network to provide
26 transportation network company services is subject to a fine of five
27 hundred dollars.

28 **Sec. 27.** RCW 51.12.020 and 2015 c 236 s 4 are each amended to
29 read as follows:

30 The following are the only employments which shall not be
31 included within the mandatory coverage of this title:

32 (1) Any person employed as a domestic servant in a private home
33 by an employer who has less than two employees regularly employed
34 forty or more hours a week in such employment.

35 (2) Any person employed to do gardening, maintenance, or repair,
36 in or about the private home of the employer. For the purposes of
37 this subsection, "maintenance" means the work of keeping in proper

1 condition, "repair" means to restore to sound condition after damage,
2 and "private home" means a person's place of residence.

3 (3) A person whose employment is not in the course of the trade,
4 business, or profession of his or her employer and is not in or about
5 the private home of the employer.

6 (4) Any person performing services in return for aid or
7 sustenance only, received from any religious or charitable
8 organization.

9 (5) Sole proprietors or partners.

10 (6) Any child under eighteen years of age employed by his or her
11 parent or parents in agricultural activities on the family farm.

12 (7) Jockeys while participating in or preparing horses for race
13 meets licensed by the Washington horse racing commission pursuant to
14 chapter 67.16 RCW.

15 (8)(a) Except as otherwise provided in (b) of this subsection,
16 any bona fide officer of a corporation voluntarily elected or
17 voluntarily appointed in accordance with the articles of
18 incorporation or bylaws of the corporation, who at all times during
19 the period involved is also a bona fide director, and who is also a
20 shareholder of the corporation. Only such officers who exercise
21 substantial control in the daily management of the corporation and
22 whose primary responsibilities do not include the performance of
23 manual labor are included within this subsection.

24 (b) Alternatively, a corporation that is not a "public company"
25 as defined in RCW 23B.01.400 may exempt eight or fewer bona fide
26 officers, who are voluntarily elected or voluntarily appointed in
27 accordance with the articles of incorporation or bylaws of the
28 corporation and who exercise substantial control in the daily
29 management of the corporation, from coverage under this title without
30 regard to the officers' performance of manual labor if the exempted
31 officer is a shareholder of the corporation, or may exempt any number
32 of officers if all the exempted officers are related by blood within
33 the third degree or marriage. If a corporation that is not a "public
34 company" elects to be covered under subsection (8)(a) of this
35 section, the corporation's election must be made on a form prescribed
36 by the department and under such reasonable rules as the department
37 may adopt.

38 (c) Determinations respecting the status of persons performing
39 services for a corporation shall be made, in part, by reference to
40 Title 23B RCW and to compliance by the corporation with its own

1 articles of incorporation and bylaws. For the purpose of determining
2 coverage under this title, substance shall control over form, and
3 mandatory coverage under this title shall extend to all workers of
4 this state, regardless of honorary titles conferred upon those
5 actually serving as workers.

6 (d) A corporation may elect to cover officers who are exempted by
7 this subsection in the manner provided by RCW 51.12.110.

8 (9) Services rendered by a musician or entertainer under a
9 contract with a purchaser of the services, for a specific engagement
10 or engagements when such musician or entertainer performs no other
11 duties for the purchaser and is not regularly and continuously
12 employed by the purchaser. A purchaser does not include the leader of
13 a group or recognized entity who employs other than on a casual basis
14 musicians or entertainers.

15 (10) Services performed by a newspaper vendor, carrier, or
16 delivery person selling or distributing newspapers on the street, to
17 offices, to businesses, or from house to house and any freelance news
18 correspondent or "stringer" who, using his or her own equipment,
19 chooses to submit material for publication for free or a fee when
20 such material is published.

21 (11) Services performed by an insurance producer, as defined in
22 RCW 48.17.010, or a surplus line broker licensed under chapter 48.15
23 RCW.

24 (12) Services performed by a booth renter. However, a person
25 exempted under this subsection may elect coverage under RCW
26 51.32.030.

27 (13) Members of a limited liability company, if either:

28 (a) Management of the company is vested in its members, and the
29 members for whom exemption is sought would qualify for exemption
30 under subsection (5) of this section were the company a sole
31 proprietorship or partnership; or

32 (b) Management of the company is vested in one or more managers,
33 and the members for whom the exemption is sought are managers who
34 would qualify for exemption under subsection (8) of this section were
35 the company a corporation.

36 (14) A driver providing (~~commercial~~) transportation network
37 company services ((as defined in RCW 48.177.005)) under chapter
38 46.--- RCW (the new chapter created in section 37 of this act). The
39 driver may elect coverage in the manner provided by RCW 51.32.030.

1 (15) For hire vehicle operators under chapter 46.72 RCW who own
2 or lease the for hire vehicle, chauffeurs under chapter 46.72A RCW
3 who own or lease the limousine, and operators of taxicabs under
4 chapter 81.72 RCW who own or lease the taxicab. An owner or lessee
5 may elect coverage in the manner provided by RCW 51.32.030.

6 **Sec. 28.** RCW 46.72.010 and 1996 c 87 s 18 are each amended to
7 read as follows:

8 When used in this chapter:

9 (1) The term "for hire vehicle" includes all vehicles used for
10 the transportation of passengers for compensation, except auto
11 stages, school buses operating exclusively under a contract to a
12 school district, ride-sharing vehicles under chapter 46.74 RCW,
13 limousine carriers licensed under chapter 46.72A RCW, vehicles used
14 to provide transportation network company services under chapter
15 46.--- RCW (the new chapter created in section 37 of this act),
16 vehicles used by nonprofit transportation providers for elderly
17 persons or (~~handicapped~~) persons with disabilities and their
18 attendants under chapter 81.66 RCW, vehicles used by auto
19 transportation companies licensed under chapter 81.68 RCW, vehicles
20 used to provide courtesy transportation at no charge to and from
21 parking lots, hotels, and rental offices, and vehicles used by
22 charter party carriers of passengers and excursion service carriers
23 licensed under chapter 81.70 RCW;

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

27 **Sec. 29.** RCW 46.74.020 and 1979 c 111 s 2 are each amended to
28 read as follows:

29 Ride-sharing vehicles are not deemed for hire vehicles and do not
30 fall within the provisions of chapter 46.72 RCW or any other
31 provision of Title 46 RCW affecting for hire vehicles or
32 transportation network company vehicles, whether or not the ride-
33 sharing operator receives compensation.

34 **Sec. 30.** RCW 50.04.100 and 1982 1st ex.s. c 18 s 14 are each
35 amended to read as follows:

36 "Employment", subject only to the other provisions of this title,
37 means personal service, of whatever nature, unlimited by the

1 relationship of master and servant as known to the common law or any
2 other legal relationship, including service in interstate commerce,
3 performed for wages or under any contract calling for the performance
4 of personal services, written or oral, express or implied. However,
5 for purposes of this title "employment" does not include
6 transportation network company services performed by a transportation
7 network company driver under chapter 46.--- RCW (the new chapter
8 created in section 37 of this act), on or after January 1, 2011.

9 Except as provided by RCW 50.04.145, personal services performed
10 for an employing unit by one or more contractors or subcontractors
11 acting individually or as a partnership, which do not meet the
12 provisions of RCW 50.04.140, shall be considered employment of the
13 employing unit: PROVIDED, HOWEVER, That such contractor or
14 subcontractor shall be an employer under the provisions of this title
15 in respect to personal services performed by individuals for such
16 contractor or subcontractor.

17 **Sec. 31.** RCW 81.68.015 and 2009 c 557 s 1 are each amended to
18 read as follows:

19 This chapter does not apply to corporations or persons, their
20 lessees, trustees, receivers, or trustees appointed by any court
21 whatsoever insofar as they own, control, operate, or manage taxicabs,
22 hotel buses, school buses, or any other carrier that does not come
23 within the term "auto transportation company" as defined in RCW
24 81.68.010.

25 This chapter does not apply to persons operating motor vehicles
26 when operated wholly within the limits of incorporated cities or
27 towns, and for a distance not exceeding three road miles beyond the
28 corporate limits of the city or town in Washington in which the
29 original starting point of the vehicle is located, and which
30 operation either alone or in conjunction with another vehicle or
31 vehicles is not a part of any journey beyond the three-mile limit.

32 This chapter does not apply to commuter ride sharing or ride
33 sharing for persons with special transportation needs in accordance
34 with RCW 46.74.010, so long as the ride-sharing operation does not
35 compete with or infringe upon comparable service actually being
36 provided before the initiation of the ride-sharing operation by an
37 existing auto transportation company certificated under this chapter.

38 This chapter does not apply to a service carrying passengers for
39 compensation over any public highway in this state between fixed

1 termini or over a regular route if the commission finds, with or
2 without a hearing, that the service does not serve an essential
3 transportation purpose, is solely for recreation, and would not
4 adversely affect the operations of the holder of a certificate under
5 this chapter, and that exemption from this chapter is otherwise in
6 the public interest. Companies providing these services must,
7 however, obtain a permit under chapter 81.70 RCW.

8 This chapter does not apply to a service carrying passengers for
9 compensation over any public highway in this state between fixed
10 termini or over a regular route if the commission finds, with or
11 without a hearing, that the service is provided pursuant to a
12 contract with a state agency, or funded by a grant issued by the
13 department of transportation, and that exemption from this chapter is
14 otherwise in the public interest. Companies providing these services
15 must, however, obtain a permit under chapter 81.70 RCW.

16 This chapter does not apply to transportation network companies,
17 transportation network company drivers, or transportation network
18 company vehicles under chapter 46.--- RCW (the new chapter created in
19 section 37 of this act).

20 **Sec. 32.** RCW 19.182.040 and 2011 c 333 s 2 are each amended to
21 read as follows:

22 (1) Except as authorized under subsection (2) of this section, no
23 consumer reporting agency may make a consumer report containing any
24 of the following items of information:

25 (a) Bankruptcies that, from date of adjudication of the most
26 recent bankruptcy, antedate the report by more than ten years;

27 (b) Suits and judgments that, from date of entry, antedate the
28 report by more than seven years or until the governing statute of
29 limitations has expired, whichever is the longer period;

30 (c) Paid tax liens that, from date of payment, antedate the
31 report by more than seven years;

32 (d) Accounts placed for collection or charged to profit and loss
33 that antedate the report by more than seven years;

34 (e) Records of arrest, indictment, or conviction of an adult for
35 a crime that, from date of disposition, release, or parole, antedate
36 the report by more than seven years;

37 (f) Juvenile records, as defined in RCW 13.50.010(1)(~~(e)~~) (d),
38 when the subject of the records is twenty-one years of age or older
39 at the time of the report; and

1 (g) Any other adverse item of information that antedates the
2 report by more than seven years.

3 (2) Subsection (1)(a) through (e) and (g) of this section is not
4 applicable in the case of a consumer report to be used in connection
5 with:

6 (a) A credit transaction involving, or that may reasonably be
7 expected to involve, a principal amount of fifty thousand dollars or
8 more;

9 (b) The underwriting of life insurance involving, or that may
10 reasonably be expected to involve, a face amount of fifty thousand
11 dollars or more; ~~((or))~~

12 (c) The employment of an individual at an annual salary that
13 equals, or that may reasonably be expected to equal, twenty thousand
14 dollars or more; or

15 (d) A background check searching for any conviction of an adult
16 for a crime that is a sex offense as defined in RCW 9.94A.030.

17 NEW SECTION. Sec. 33. A new section is added to chapter 50.04
18 RCW to read as follows:

19 Except for services subject to RCW 50.44.010, 50.44.020,
20 50.44.030, or 50.50.010, "employment" does not include transportation
21 network company services performed by a transportation network
22 company driver under chapter 46.--- RCW (the new chapter created in
23 section 37 of this act) on or after January 1, 2011.

24 NEW SECTION. Sec. 34. This chapter does not change or limit the
25 authority of: The utilities and transportation commission to regulate
26 special needs transportation providers under chapter 81.66 RCW, auto
27 transportation companies under chapter 81.68 RCW, or charter and
28 excursion companies under chapter 81.70 RCW; or a certificate holder
29 under chapter 81.66, 81.68, or 81.70 RCW to provide transportation
30 services within the scope of the holder's certificate.

31 NEW SECTION. Sec. 35. RCW 48.177.005 (Definitions) and 2016 c
32 21 s 1 are each repealed.

33 NEW SECTION. Sec. 36. RCW 48.177.010 is recodified as a section
34 in chapter 46.--- RCW (the new chapter created in section 37 of this
35 act).

1 NEW SECTION. **Sec. 37.** Sections 1 through 21, 23, 25, and 34 of
2 this act constitute a new chapter in Title 46 RCW."

SSB 5620 - S AMD 102
By Senator King

ADOPTED 03/07/2017

3 On page 1, line 1 of the title, after "companies;" strike the
4 remainder of the title and insert "amending RCW 48.177.010,
5 51.12.020, 46.72.010, 46.74.020, 50.04.100, 81.68.015, and
6 19.182.040; reenacting and amending RCW 42.56.270 and 43.79A.040;
7 adding a new section to chapter 50.04 RCW; adding a new chapter to
8 Title 46 RCW; recodifying RCW 48.177.010; repealing RCW 48.177.005;
9 and prescribing penalties."

EFFECT: The following changes are new or different from the substitute bill that passed out of the Senate Transportation Committee:

(1) Allows local governments to require a business license of a transportation network company (TNC) driver;

(2) Allows public entities that govern airport facilities to regulate all TNC activities related to TNC services at airport facilities or properties including, but not limited to, rate, entry, and operational requirements. The enforcement of public entities' rules and the authority to enter into a contract or agreement governing TNC activity on airport facility properties are not limited;

(3) Provides that local governmental entities' regulatory authority relating to traffic flow, patterns, and roadways, including public right-of-way, to ensure public safety and imposing impact fees is not affected;

(4) Requires local authorities to use the revenue received from the initial ten cent surcharge for enforcement;

(5) Provides the department of licensing (DOL) with rule-making authority concerning TNC regulation;

(6) Requires a driver and the TNC to consent in writing for personal information to be disclosed;

(7) Introduces the Uniform Regulation of Business and Professions Act into the chapter regulating TNCs;

(8) Allows convictions of sexual offenses as an adult to be reportable under the fair credit reporting statutes;

(9) Reaffirms the utilities and transportation commission's regulatory authority with special needs providers under chapter 81.66 RCW, charter and excursion companies under chapter 81.70 RCW, or auto transportation companies under chapter 81.68 RCW;

(10) Adds "code city" to the definition of municipality;

(11) Excludes "auto transportation company" and "metropolitan public transportation" from the definition of transportation network company, and transportation provided by them is exempted from the definition of a prearranged ride;

(12) Exempts vehicles used by an auto transportation company and metropolitan public transportation from the definition of transportation network vehicle. Additionally, TNC vehicles are exempted from regulation under the chapter relating to auto transportation companies;

(13) Affirms that a TNC vehicle must have a seating capacity of fewer than 8 people, excluding the driver;

(14) Affirms that the term "employment" does not include TNC services under the statutes relating to unemployment compensation;

(15) Lowers the population threshold of a city to impose the additional ten cent surcharge for improving transportation options for people with disabilities to 200,000 people;

(16) Provides DOL with the authority to raise the ten cent surcharge if the amount of revenue coming in from the initial ten cent surcharge is not enough to cover the cost of administering the program at the agency or for enforcement on the local level;

(17) Requires the 5,000 dollar permit fee for TNCs to be deposited into the transportation network company account;

(18) Imposes civil infractions on the driver or TNC, or both, relating to violations of certain requirements for TNC drivers and vehicles. Fees from violations of certain subsections regarding vehicle rules, background checks, violation of the zero tolerance policy, or licensing may be assessed by local and/or state law enforcement; and

(19) Allows DOL to impose a monetary penalty and/or suspend or revoke a TNC permit for TNCs that are in violation of the rules set forth in the chapter.

--- END ---