

ESHB 1367 - S COMM AMD

By Committee on Labor, Commerce & Consumer Protection

ADOPTED 04/08/2011

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

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 51.12 RCW
4 to read as follows:

5 The legislature finds that taxicab, limousine, and other for hire
6 vehicle operators are at significant risk of injury due to work-related
7 accidents or crimes such as robbery that may not be covered by standard
8 vehicle insurance policies. Since almost all taxicab, limousine, and
9 other for hire vehicle business operations are independent small
10 business franchises, their owners or operators may opt out of
11 industrial insurance coverage without full consideration for the risk
12 of financial exposure to themselves or to their businesses. As a
13 result, health care may be provided to them at public expense or not at
14 all, and erroneous claims may be made by health care providers for
15 insurance coverage, against the state department of labor and
16 industries, private businesses, or the taxicab associations in which
17 certain municipalities require participation. Most for hire vehicle
18 operators do not enjoy the benefit of the broad public policy embodied
19 in this title that mandates industrial insurance protection for
20 workers. The legislature therefore declares that all taxicab,
21 limousine, for hire vehicle businesses, and for hire vehicle operators
22 are subject to mandatory industrial insurance coverage under this
23 title.

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 51.12 RCW
25 to read as follows:

26 (1) Any business that owns and operates a for hire vehicle licensed
27 under chapter 46.72 RCW, a limousine under chapter 46.72A RCW, or a
28 taxicab under chapter 81.72 RCW and the for hire operator or chauffeur
29 of such vehicle is within the mandatory coverage of this title.

1 (2) Any business that as owner or agent leases a for hire vehicle
2 licensed under chapter 46.72 RCW, a limousine under chapter 46.72A RCW,
3 or a taxicab under chapter 81.72 RCW to a for hire operator or a
4 chauffeur and the for hire operator or chauffeur of such vehicle is
5 within the mandatory coverage of this title.

6 (3) For the purposes of this section, the following definitions
7 apply unless the context clearly requires otherwise:

8 (a) "Chauffeur" has the same meaning as provided in RCW 46.04.115;
9 and

10 (b) "For hire operator" means a person who is operating a vehicle
11 for the purpose of carrying persons for compensation.

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 51.16 RCW
13 to read as follows:

14 (1) For the purposes of section 2 of this act:

15 (a) By no later than January 1, 2012, the department must determine
16 by rule the basis for industrial insurance premiums for: (i) Any
17 business that owns and operates for hire, limousine, or taxicab
18 vehicles; and (ii) any business that owns and leases for hire,
19 limousine, or taxicab vehicles to a business operating such vehicle;
20 and

21 (b) Not more than ninety days after the department has determined
22 the basis for industrial insurance premiums by rule under (a) of this
23 subsection, the department must assess such premiums on: (i) Any
24 business that owns and operates for hire, limousine, or taxicab
25 vehicles; and (ii) any business that owns and leases for hire,
26 limousine, or taxicab vehicles to a business operating such vehicle.

27 (2) In determining the basis under this section, the department
28 must consider:

29 (a) The unique economic structures of the taxicab, for hire
30 vehicle, and limousine industries;

31 (b) The difficulty of equitably assessing industrial insurance
32 premiums on classes of businesses that utilize both employer/employee
33 and independent contractor business models;

34 (c) The economic impact on businesses of a rate and assessment
35 alternative, such as a flat rate and assessment levied on a per vehicle
36 or a miles driven basis, compared to that of an assessment based on
37 hours worked;

- 1 (d) The department's costs and efficiency of administration;
2 (e) The cost to businesses and covered workers; and
3 (f) Anticipated effectiveness in implementing mandatory industrial
4 insurance coverage of for hire vehicle operators as provided in section
5 2 of this act.

6 NEW SECTION. **Sec. 4.** A new section is added to chapter 51.12 RCW
7 to read as follows:

8 (1) In order to assist the department with controlling costs
9 related to the self-monitoring of industrial insurance claims by
10 independent owner-operated for hire vehicle, limousine, and taxicab
11 businesses, the department may appoint a panel of individuals with for
12 hire vehicle, limousine, or taxicab transportation industry experience
13 and expertise to advise the department.

14 (2) The owner of any for hire, limousine, or taxicab vehicle
15 subject to mandatory industrial insurance pursuant to section 2 of this
16 act is eligible for inclusion in a retrospective rating program
17 authorized and established pursuant to chapter 51.18 RCW.

18 NEW SECTION. **Sec. 5.** A new section is added to chapter 46.72 RCW
19 to read as follows:

20 (1) A for hire vehicle certificate issued pursuant to this chapter
21 must be suspended or revoked and may not be renewed in the event of
22 failure to pay the mandatory for hire vehicle operator industrial
23 insurance premium as charged by the department of labor and industries
24 under sections 2 and 3 of this act.

25 (2)(a) A for hire vehicle and its operator must have evidence of
26 payment in good standing with the department of labor and industries of
27 the for hire vehicle operator industrial insurance premium, whenever
28 the for hire vehicle is operated on public streets and highways for
29 compensation.

30 (b) Failure to produce evidence of payment of the for hire vehicle
31 insurance premium upon demand by a law enforcement officer or other
32 government agent acting under the authority of this chapter is a civil
33 infraction punishable by a fine of not more than two hundred fifty
34 dollars per infraction separately upon both the for hire vehicle owner
35 and the for hire vehicle operator if they are not one and the same.

1 (3) For hire vehicle license suspension or revocation and the
2 administration thereof for failure to pay the mandatory industrial
3 insurance premium must be at the direction and expense of the
4 department of labor and industries.

5 (4) The department of labor and industries and the department of
6 licensing may adopt rules and enter into cooperative agreements to
7 implement this section.

8 NEW SECTION. **Sec. 6.** A new section is added to chapter 46.72A RCW
9 to read as follows:

10 (1) A business license and vehicle certificate issued pursuant to
11 RCW 46.72A.050 must be suspended or revoked and must not be renewed in
12 the event of failure to pay the mandatory for hire vehicle operator
13 industrial insurance premium as charged by the department of labor and
14 industries under sections 2 and 3 of this act.

15 (2)(a) A limousine and its chauffeur must have evidence of payment
16 in good standing with the department of labor and industries of the for
17 hire vehicle operator industrial insurance premium, whenever the
18 limousine is operated on public streets and highways for compensation.

19 (b) Failure to produce evidence of payment of the for hire vehicle
20 insurance premium upon demand by a law enforcement officer or other
21 government agent acting under the authority of this chapter is a civil
22 infraction punishable by a fine of not more than two hundred fifty
23 dollars per infraction separately upon both the limousine vehicle owner
24 and the limousine chauffeur if they are not one and the same.

25 (3) Business license and vehicle certificate suspension or
26 revocation and the administration thereof for failure to pay the
27 mandatory industrial insurance premium must be at the direction and
28 expense of the department of labor and industries.

29 (4) The department of labor and industries and the department of
30 licensing may adopt rules and enter into cooperative agreements to
31 implement this section.

32 NEW SECTION. **Sec. 7.** A new section is added to chapter 81.72 RCW
33 to read as follows:

34 (1) A license issued pursuant to this chapter must be suspended or
35 revoked and may not be renewed in the event of failure to pay the

1 mandatory for hire vehicle operator industrial insurance premium as
2 charged by the department of labor and industries under sections 2 and
3 3 of this act.

4 (2)(a) A taxicab vehicle and its operator must have evidence of
5 payment in good standing with the department of labor and industries of
6 the for hire vehicle operator industrial insurance premium, whenever
7 the taxicab vehicle is operated on public streets and highways for
8 compensation.

9 (b) Failure to produce evidence of payment of the for hire vehicle
10 insurance premium upon demand by a law enforcement officer or other
11 government agent acting under the authority of this chapter is a civil
12 infraction punishable by a fine of not more than two hundred fifty
13 dollars per infraction separately upon both the taxicab vehicle owner
14 and the taxicab vehicle operator if they are not one and the same.

15 (3) Taxicab vehicle license suspension or revocation and the
16 administration thereof for failure to pay the mandatory industrial
17 insurance premium must be at the direction and expense of the
18 department of labor and industries.

19 (4)(a) The department of labor and industries, the department of
20 licensing, cities, towns, counties, and port districts may enter into
21 cooperative agreements to implement this section.

22 (b) The department of licensing and the department of labor and
23 industries may adopt rules to implement this section.

24 (c) Cities, towns, counties, and port districts may take
25 legislative action to implement this section.

26 NEW SECTION. **Sec. 8.** A new section is added to chapter 81.72 RCW
27 to read as follows:

28 (1) Any city, town, county, or port district setting the rates
29 charged for taxicab services under this chapter must adjust rates to
30 accommodate changes in the cost of industrial insurance or in other
31 industry-wide costs.

32 (2) Any business that as owner leases a taxicab licensed under this
33 chapter to a for hire operator must make a reasonable effort to train
34 the for hire operator in motor vehicle operation and safety
35 requirements and monitor operator compliance. Monitoring operator
36 compliance may include the use of vehicle operator monitoring cameras.

1 NEW SECTION. **Sec. 9.** Except for section 3 of this act, this act
2 takes effect January 1, 2012."

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3 On page 1, line 2 of the title, after "operators;" strike the
4 remainder of the title and insert "adding new sections to chapter 51.12
5 RCW; adding a new section to chapter 51.16 RCW; adding a new section to
6 chapter 46.72 RCW; adding a new section to chapter 46.72A RCW; adding
7 new sections to chapter 81.72 RCW; creating a new section; prescribing
8 penalties; and providing an effective date."

EFFECT: Instead of considering adjustment of the rates to offset
increased cost from industrial or other insurance coverage, local
governments setting rates must adjust the rates to accommodate changes
in the cost of industrial insurance or in other industry-wide costs.

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