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**SENATE BILL 5620**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators King, Hobbs, Fain, Mullet, and Palumbo

AN ACT Relating to transportation network companies; amending RCW 48.177.010, 51.12.020, 46.72.010, 46.74.020, and 50.04.100; reenacting and amending RCW 42.56.270 and 43.79A.040; adding a new chapter to Title 46 RCW; recodifying RCW 48.177.010; and repealing RCW 48.177.005.

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

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

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

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

(2) "Municipality" means a city or town with a certificate of incorporation, or township created by an act of the state.

(3) "Prearranged ride" means the provision of transportation or a trip by a transportation network company driver to a transportation network company rider, beginning when a transportation network company driver accepts a ride requested by a transportation network company rider through a digital network controlled by a transportation network company, continuing while the transportation network company driver transports the transportation network company rider, and ending when the last transportation network company rider departs from the transportation network company vehicle. "Prearranged ride" does not include: (a) Transportation provided by a taxi, limousine, motor carrier as defined in RCW 81.80.010, or other for hire vehicle or pursuant to chapter 46.72, 46.73, or 81.72 RCW; or (b) a shared expense carpool or vanpool arrangement or service as defined as ride sharing in RCW 46.74.010.

(4) "Transportation network company" means a corporation, partnership, sole proprietorship, or other entity that is licensed under this chapter and operating in Washington state and uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides. A transportation network company is not deemed to control, direct, or manage the transportation network company vehicles or transportation network company drivers that connect to its digital network, except when agreed to by written contract. "Transportation network company" does not include a for hire transportation service or taxicab transportation service provided under chapter 46.72 or 81.72 RCW.

(5) "Transportation network company driver" means an individual who:

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

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

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

(7) "Transportation network company services" means services provided by a transportation network company driver at any time that a transportation network company driver is logged in to a transportation network company's digital network or providing a prearranged ride. "Transportation network company services" does not include services provided either directly or under contract with a political subdivision or other entity exempt from federal income tax under 26 U.S.C. Sec. 115 of the federal internal revenue code.

(8) "Transportation network company vehicle" means a vehicle that is:

(a) Used by a transportation network company driver to provide a prearranged ride;

(b) Owned, leased, or otherwise authorized for use by the transportation network company driver; and

(c) Not a taxicab, limousine, commuter ride-sharing vehicle, or for hire vehicle for purposes of chapter 46.72, 46.72A, 46.73, 46.74, 46.76, or 81.72 RCW.

NEW SECTION. **Sec.**  A transportation network company or transportation network company driver is not a common carrier, motor carrier, or any other carrier as defined in RCW 81.80.010, and does not provide commuter ride sharing, taxicab, or for hire vehicle services pursuant to chapter 46.72, 46.73, or 81.72 RCW. A transportation network company driver is not required to register a transportation network company vehicle used to provide prearranged rides as a commercial vehicle or for hire vehicle.

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

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

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

NEW SECTION. **Sec.**  On behalf of a transportation network company driver, a transportation network company may charge a fare for transportation network company services provided to any transportation network company rider, but must disclose to the rider the fare or fare calculation method on its web site or within its digital network. Before a rider enters a transportation network company vehicle, the transportation network company must provide, on behalf of the transportation network company driver, either the fare for the prearranged ride or the option to receive an estimated fare for the prearranged ride.

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

NEW SECTION. **Sec.**  Within a reasonable period of time following the completion of a trip, a transportation network company must transmit an electronic receipt to the transportation network company rider on behalf of the transportation network company driver that lists:

(1) The origin and destination of the trip;

(2) The total time and distance of the trip; and

(3) An itemization of the total fare paid, if any.

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

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

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

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

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

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

(2) A transportation network company must provide notice of this policy on its web site, as well as procedures to report a complaint about a transportation network company driver with whom a transportation network company rider was matched and whom the rider reasonably suspects was under the influence of drugs or alcohol during the course of the trip. Upon receipt of a complaint alleging a violation of the zero tolerance policy, the transportation network company must suspend the transportation network company driver's ability to accept trip requests through the transportation network company's digital network as soon as possible and conduct an investigation into the reported incident. The suspension must last the duration of the investigation.

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

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

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

(b) The transportation network company, or a designated third party on behalf of the transportation network company, that is either accredited by the national association of professional background screeners or approved by the director, must conduct a local and national criminal background check for the applicant to include a review of:

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

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

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

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

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

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

(ii) Reckless driving pursuant to RCW 46.61.500; or

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

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

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

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

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

(iv) Any sex offense as defined in RCW 9.94A.030; or

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

(c) Is a match in the United States department of justice national sex offender public web site;

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

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

(f) Is not at least nineteen years of age.

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

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

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

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

(c) Has received a safety inspection in the last year that includes the following components:

(i) Foot brakes;

(ii) Parking brakes;

(iii) Steering mechanism;

(iv) Windshield;

(v) Rear window and other glass;

(vi) Windshield wipers;

(vii) Headlights;

(viii) Taillights;

(ix) Turn indicator lights;

(x) Stop lights;

(xi) Front seat adjustment mechanism;

(xii) Doors (open, close, lock);

(xiii) Horn;

(xiv) Speedometer;

(xv) Bumpers;

(xvi) Muffler and exhaust system;

(xvii) Condition of tires, including tread depth;

(xviii) Interior and exterior mirrors; and

(xix) Safety belts for driver and passenger(s).

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

NEW SECTION. **Sec.**  A transportation network company driver may not solicit or accept a trip other than a trip arranged through the transportation network company's digital network.

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

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

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

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

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

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

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

NEW SECTION. **Sec.**  (1) For the sole purpose of verifying that a transportation network company is in compliance with the requirements of this chapter and no more than annually, the department may visually inspect a sample of records that the transportation network company is required to maintain under this chapter. The sample of records must be chosen randomly by the department in a manner agreeable to both parties. Any audit must take place at a mutually agreed location in the state of Washington. Any record sample furnished to the department may exclude information that would tend to identify specific transportation network company drivers or riders.

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

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

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

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

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

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

(4) The department must retain such amount of the passenger surcharge fee collected under subsection (3)(a) of this section as is necessary to cover the expenses borne by the department derived from the: (a) Regulation and registration of transportation network companies; and (b) the collection, remittance, and distribution of passenger surcharge fees under this section. The department must deposit these funds in the transportation network company account created in section 19 of this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) Unaggregated or individual notices of a transfer of crude oil that is financial, proprietary, or commercial information, submitted to the department of ecology pursuant to RCW 90.56.565(1)(a), and that is in the possession of the department of ecology or any entity with which the department of ecology has shared the notice pursuant to RCW 90.56.565;

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

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

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

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

(28) Any records, including proprietary financial, commercial, operations, and personal information and data submitted to or obtained by the department of licensing or any municipality or county under chapter 46.--- RCW (the new chapter created in section 29 of this act).

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

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

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

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

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

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

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the multiagency permitting team account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the transportation network company account, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, the center for childhood deafness and hearing loss account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, and the radiation perpetual maintenance fund.

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

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

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

NEW SECTION. **Sec.**  The state of Washington fully occupies and preempts: The entire field of regulation of transportation network company licensing and permits for transportation network companies and transportation network company drivers; all requirements, applications, certifications, examinations, and background checks for transportation network company drivers, and the processing and adjudication of each; and all rate, entry, or operational requirements for transportation network companies within the boundaries of the state. Any political subdivision in this state may enforce only those laws and ordinances relating to the regulation of such fields concerning the transportation network company industry that are specifically authorized by state law and are consistent with this chapter. This section is not intended to limit, extend, address, affect, or permit the authority of any political subdivision to impose generally applicable requirements upon transportation network companies within its jurisdiction. Local laws and ordinances that are inconsistent with, more restrictive than, or exceed the requirements of this chapter may not be enacted and are preempted and repealed, regardless of the code, charter, or home rule status of such political subdivision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) Insurers that write automobile insurance in Washington may exclude any and all coverage afforded under a private passenger automobile insurance policy issued to an owner or operator of a personal vehicle for any loss or injury that occurs while a transportation network company driver ((~~for a commercial transportation services provider~~)) is logged in to a ((~~commercial~~)) transportation ((~~services provider's~~)) network company's digital network or while a transportation network company driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage included in a private passenger automobile insurance policy including, but not limited to:

(a) Liability coverage for bodily injury and property damage;

(b) Personal injury protection coverage;

(c) Underinsured motorist coverage;

(d) Medical payments coverage;

(e) Comprehensive physical damage coverage; and

(f) Collision physical damage coverage.

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

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

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

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

(a) Except as provided otherwise under subsection (2)(c) of this section, if the driver has been matched with a passenger and is traveling to pick up the passenger, or the driver is providing transportation network company services to a passenger, the ((~~commercial~~)) transportation ((~~services provider~~)) network company that matched the driver and passenger must provide insurance coverage; or

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

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

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

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

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

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

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

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

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

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

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

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

(2) Any person employed to do gardening, maintenance, or repair, in or about the private home of the employer. For the purposes of this subsection, "maintenance" means the work of keeping in proper condition, "repair" means to restore to sound condition after damage, and "private home" means a person's place of residence.

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

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

(5) Sole proprietors or partners.

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

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

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

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

(c) Determinations respecting the status of persons performing services for a corporation shall be made, in part, by reference to Title 23B RCW and to compliance by the corporation with its own articles of incorporation and bylaws. For the purpose of determining coverage under this title, substance shall control over form, and mandatory coverage under this title shall extend to all workers of this state, regardless of honorary titles conferred upon those actually serving as workers.

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

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

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

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

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

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

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

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

(14) A driver providing ((~~commercial~~)) transportation network company services ((~~as defined in RCW 48.177.005~~)) under chapter 46.--- RCW (the new chapter created in section 29 of this act). The driver may elect coverage in the manner provided by RCW 51.32.030.

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

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

When used in this chapter:

(1) The term "for hire vehicle" includes all vehicles used for the transportation of passengers for compensation, except auto stages, school buses operating exclusively under a contract to a school district, ride-sharing vehicles under chapter 46.74 RCW, limousine carriers licensed under chapter 46.72A RCW, vehicles used to provide transportation network company services under chapter 46.--- RCW (the new chapter created in section 29 of this act), vehicles used by nonprofit transportation providers for elderly persons or ((~~handicapped~~)) persons with disabilities and their attendants under chapter 81.66 RCW, vehicles used by auto transportation companies licensed under chapter 81.68 RCW, vehicles used to provide courtesy transportation at no charge to and from parking lots, hotels, and rental offices, and vehicles used by charter party carriers of passengers and excursion service carriers licensed under chapter 81.70 RCW;

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

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

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

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

"Employment", subject only to the other provisions of this title, means personal service, of whatever nature, unlimited by the relationship of master and servant as known to the common law or any other legal relationship, including service in interstate commerce, performed for wages or under any contract calling for the performance of personal services, written or oral, express or implied. However, for purposes of this title "employment" does not include transportation network company services performed by a transportation network company driver under chapter 46.--- RCW (the new chapter created in section 29 of this act), on or after January 1, 2011.

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

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

NEW SECTION. **Sec.**  RCW 48.177.010 is recodified as a section in chapter 46.--- RCW (the new chapter created in section 29 of this act).

NEW SECTION. **Sec.**  Sections 1 through 17, 19, and 21 of this act constitute a new chapter in Title 46 RCW.

**--- END ---**