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**HOUSE BILL 1528**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Representatives Robertson, Barkis, and Eslick

AN ACT Relating to commute trip reduction policies in light of the global pandemic; amending RCW 47.66.030, 47.66.040, 47.66.100, 70A.15.4020, 70A.15.4040, 70A.15.4050, 82.08.0287, and 82.12.0282; creating new sections; providing expiration dates; and declaring an emergency.

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

NEW SECTION. **Sec.**  The legislature finds that transportation patterns drastically changed in March 2020 after the governor proclaimed a state of emergency and associated proclamation to prevent the spread of the novel coronavirus (COVID-19). Hundreds of thousands of employees are now working from home, with an expectation that they will continue to do so for months, if not years, to come. Revenues for transportation programs have plummeted. The legislature finds that this societal course change demands a reevaluation of the commute trip reduction program and reduction of related expenditures, including for costly vehicles that are not being used.

NEW SECTION. **Sec.**  (1) The joint transportation committee must conduct a comprehensive assessment of the effectiveness of the statewide commute trip reduction program. The assessment must identify new trends in transportation behavior that have occurred since March 2020. It must reevaluate the commute trip reduction program statewide requirements and policies in light of the actual usage of transportation services and make recommendations for changes to the mandatory program elements and spending based on the new societal norms and drastic reduction of commuting and business travel. The assessment must provide a cost-benefit analysis based on usage and effectiveness of the different types of demand management measures identified in RCW 70A.15.4040 as implemented by the state and major employers required to adopt a commute trip reduction plan. The joint transportation committee should identify program elements that ought to be modified or eliminated.

(2) The joint transportation committee must seek input from government agencies and major employers subject to the requirements of the commute trip reduction program from all across the state, as well as associations representing those businesses.

(3) In developing and implementing the assessment, the joint transportation committee must solicit input from representatives of the department of transportation, the Washington state association of counties, the association of Washington cities, two business associations that represent major employers required to implement a commute trip reduction plan, two employees that administer the commute trip reduction program for major employers, and two employees that administer the commute trip reduction program for government agencies, and others as deemed appropriate by the executive committee of the joint transportation committee.

(4) The recommendations must consider the different needs for employers and state agencies that are located outside of urban counties.

(5) The joint transportation committee must publicly hold a work session on a proposed work plan no later than December 31, 2021, and issue a report of its findings and recommendations to the transportation committees of the legislature by December 31, 2022.

**Sec.**  RCW 47.66.030 and 2015 3rd sp.s. c 11 s 3 are each amended to read as follows:

(1)(a) The department shall establish a regional mobility grant program. The purpose of the grant program is to aid local governments in funding projects such as intercounty connectivity service, park and ride lots, rush hour transit service, and capital projects that improve the connectivity and efficiency of our transportation system. The department shall identify cost-effective projects that reduce delay for people and goods and improve connectivity between counties and regional population centers. The department shall submit a prioritized list of all projects requesting funding to the legislature by December 1st of each year.

(b) Once the department has a prioritized list, pursuant to (a) of this subsection and RCW 47.66.040, of all projects requesting funding, the department shall reprioritize the projects in counties with a population of seven hundred thousand or more that border Puget Sound based on the same criteria used for the prioritized list as well as the additional criteria of coordination and integration. After this reprioritization, the department shall integrate these reprioritized projects with the prioritized projects from all other counties while ensuring that the prioritized projects from all other counties do not move to a lower relative position on this integrated list or, if a prioritized project from all other counties is in the funded portion of the prioritized list, out of the funded portion of this integrated list.

(2) The department may establish an advisory committee to carry out the mandates of this chapter.

(3) The department must report annually to the transportation committees of the legislature on the status of any grants projects funded by the program created under this section.

(4) During the 2021-2023 biennium, the department may not recommend or award funding to purchase car pool or van pool vehicles for the purposes of commute trip reduction.

**Sec.**  RCW 47.66.040 and 2005 c 318 s 5 are each amended to read as follows:

(1) The department shall select projects based on a competitive process. The competition shall be consistent with the following criteria:

(a) Local, regional, and state transportation plans;

(b) Local transit development plans; and

(c) Local comprehensive land use plans.

(2) The following criteria shall be considered by the department in selecting programs and projects:

(a) Objectives of the growth management act, the high capacity transportation act, the commute trip reduction act, transportation demand management programs, federal and state air quality requirements, and federal Americans with Disabilities Act and related state accessibility requirements; and

(b) Enhancing the efficiency of regional corridors in moving people among jurisdictions and modes of transportation, energy efficiency issues, reducing delay for people and goods, freight and goods movement as related to economic development, regional significance, rural isolation, the leveraging of other funds, and safety and security issues.

(3) The department shall determine the appropriate level of local match required for each project based on the source of funds. The department may determine that no match is required for small cities and rural areas.

(4) During the 2021-2023 biennium, the department may not recommend or award funding to purchase car pool or van pool vehicles for purposes of commute trip reduction.

**Sec.**  RCW 47.66.100 and 2011 c 272 s 2 are each amended to read as follows:

(1) The department shall establish a rural mobility grant program. The purpose of the grant program is to aid small cities and rural areas, as identified in the "Summary of Public Transportation ‑ 2008" published by the department or subsequent versions published by the department.

(a) Fifty percent of the money appropriated for the rural mobility grant program must go to noncompetitive grants that must be distributed to the transit systems serving small cities and rural areas in a manner similar to past disparity equalization programs.

(b) Fifty percent of the money appropriated for the rural mobility grant program must go to competitive grants to providers of rural mobility service in areas not served or underserved by transit agencies.

(2) The department may establish an advisory committee to carry out the mandates of this section.

(3) The department must report annually to the transportation committees of the legislature on the status of any grants projects funded by the program created under this section.

(4) ((~~During the 2011-2013 fiscal biennium, the department shall, with money appropriated for the competitive grants program under subsection (1)(b) of this section, implement a pilot project to provide agricultural workers with enhanced transit opportunities through the establishment of one or more vanpool programs. The pilot project must, at a minimum, provide appropriate vehicles, insurance, and maintenance, and may charge an appropriate fee, as determined by the department, to the riders in a vanpool.~~)) During the 2021-2023 biennium, the department may not recommend or award funding to purchase car pool or van pool vehicles for the purposes of commute trip reduction.

**Sec.**  RCW 70A.15.4020 and 2020 c 20 s 1125 are each amended to read as follows:

The requirements in this section are suspended until December 31, 2023. Counties and cities must suspend local ordinances and associated activities until December 31, 2023. Employers may not be required to adopt a commute trip reduction plan or take any action pursuant to this section during the time of suspension.

(1) Each county containing an urban growth area, designated pursuant to RCW 36.70A.110, and each city within an urban growth area with a state highway segment exceeding the one hundred person hours of delay threshold calculated by the department of transportation, as well as those counties and cities located in any contiguous urban growth areas, shall adopt a commute trip reduction plan and ordinance for major employers in the affected urban growth area by a date specified by the commute trip reduction board. Jurisdictions located within an urban growth area with a population greater than seventy thousand that adopted a commute trip reduction ordinance before the year 2000, as well as any jurisdiction within contiguous urban growth areas, shall also adopt a commute trip reduction plan and ordinance for major employers in the affected urban growth area by a date specified by the commute trip reduction board. Jurisdictions containing a major employment installation in a county with an affected growth area, designated pursuant to RCW 36.70A.110, shall adopt a commute trip reduction plan and ordinance for major employers in the major employment installation by a date specified by the commute trip reduction board. The ordinance shall establish the requirements for major employers and provide an appeals process by which major employers, who as a result of special characteristics of their business or its locations would be unable to meet the requirements of the ordinance, may obtain waiver or modification of those requirements. The plan shall be designed to achieve reductions in the proportion of single-occupant vehicle commute trips and be consistent with the rules established by the department of transportation. The county, city, or town shall submit its adopted plan to the regional transportation planning organization. The county, city, or town plan shall be included in the regional commute trip reduction plan for regional transportation planning purposes, consistent with the rules established by the department of transportation in RCW 70A.15.4060.

(2) All other counties, cities, and towns may adopt and implement a commute trip reduction plan consistent with department of transportation rules established under RCW 70A.15.4060. Tribal governments are encouraged to adopt a commute trip reduction plan for their lands. State investment in voluntary commute trip reduction plans shall be limited to those areas that meet criteria developed by the commute trip reduction board.

(3) The department of ecology may, after consultation with the department of transportation, as part of the state implementation plan for areas that do not attain the national ambient air quality standards for carbon monoxide or ozone, require municipalities other than those identified in subsection (1) of this section to adopt and implement commute trip reduction plans if the department determines that such plans are necessary for attainment of said standards.

(4) A commute trip reduction plan shall be consistent with the rules established under RCW 70A.15.4060 and shall include but is not limited to (a) goals for reductions in the proportion of single-occupant vehicle commute trips consistent with the state goals established by the commute trip reduction board under RCW 70A.15.4060 and the regional commute trip reduction plan goals established in the regional commute trip reduction plan; (b) a description of the requirements for major public and private sector employers to implement commute trip reduction programs; (c) a commute trip reduction program for employees of the county, city, or town; and (d) means, consistent with rules established by the department of transportation, for determining base year values and progress toward meeting commute trip reduction plan goals. The plan shall be developed in consultation with local transit agencies, the applicable regional transportation planning organization, major employers, and other interested parties.

(5) The commute trip reduction plans adopted by counties, cities, and towns under this chapter shall be consistent with and may be incorporated in applicable state or regional transportation plans and local comprehensive plans and shall be coordinated, and consistent with, the commute trip reduction plans of counties, cities, or towns with which the county, city, or town has, in part, common borders or related regional issues. Such regional issues shall include assuring consistency in the treatment of employers who have worksites subject to the requirements of this chapter in more than one jurisdiction. Counties, cities, and towns adopting commute trip reduction plans may enter into agreements through the interlocal cooperation act or by resolution or ordinance as appropriate with other jurisdictions, local transit agencies, transportation management associations or other private or nonprofit providers of transportation services, or regional transportation planning organizations to coordinate the development and implementation of such plans. Transit agencies shall work with counties, cities, and towns as a part of their six-year transit development plan established in RCW 35.58.2795 to take into account the location of major employer worksites when planning and prioritizing transit service changes or the expansion of public transportation services, including rideshare services. Counties, cities, or towns adopting a commute trip reduction plan shall review it annually and revise it as necessary to be consistent with applicable plans developed under RCW 36.70A.070. Regional transportation planning organizations shall review the local commute trip reduction plans during the development and update of the regional commute trip reduction plan.

(6) Each affected regional transportation planning organization shall adopt a commute trip reduction plan for its region consistent with the rules and deadline established by the department of transportation under RCW 70A.15.4060. The plan shall include, but is not limited to: (a) Regional program goals for commute trip reduction in urban growth areas and all designated growth and transportation efficiency centers; (b) a description of strategies for achieving the goals; (c) a sustainable financial plan describing projected revenues and expenditures to meet the goals; (d) a description of the way in which progress toward meeting the goals will be measured; and (e) minimum criteria for growth and transportation efficiency centers. (i) Regional transportation planning organizations shall review proposals from local jurisdictions to designate growth and transportation efficiency centers and shall determine whether the proposed growth and transportation efficiency center is consistent with the criteria defined in the regional commute trip reduction plan. (ii) Growth and transportation efficiency centers certified as consistent with the minimum requirements by the regional transportation planning organization shall be identified in subsequent updates of the regional commute trip reduction plan. These plans shall be developed in collaboration with all affected local jurisdictions, transit agencies, and other interested parties within the region. The plan will be reviewed and approved by the commute trip reduction board as established under RCW 70A.15.4060. Regions without an approved regional commute trip reduction plan shall not be eligible for state commute trip reduction program funds.

The regional commute trip reduction plan shall be consistent with and incorporated into transportation demand management components in the regional transportation plan as required by RCW 47.80.030.

(7) Each regional transportation planning organization implementing a regional commute trip reduction program shall, consistent with the rules and deadline established by the department of transportation, submit its plan as well as any related local commute trip reduction plans and certified growth and transportation efficiency center programs, to the commute trip reduction board established under RCW 70A.15.4060. The commute trip reduction board shall review the regional commute trip reduction plan and the local commute trip reduction plans. The regional transportation planning organization shall collaborate with the commute trip reduction board to evaluate the consistency of local commute trip reduction plans with the regional commute trip reduction plan. Local and regional plans must be approved by the commute trip reduction board in order to be eligible for state funding provided for the purposes of this chapter.

(8) Each regional transportation planning organization implementing a regional commute trip reduction program shall submit an annual progress report to the commute trip reduction board established under RCW 70A.15.4060. The report shall be due at the end of each state fiscal year for which the program has been implemented. The report shall describe progress in attaining the applicable commute trip reduction goals and shall highlight any problems being encountered in achieving the goals. The information shall be reported in a form established by the commute trip reduction board.

(9) Any waivers or modifications of the requirements of a commute trip reduction plan granted by a jurisdiction shall be submitted for review to the commute trip reduction board established under RCW 70A.15.4060. The commute trip reduction board may not deny the granting of a waiver or modification of the requirements of a commute trip reduction plan by a jurisdiction but they may notify the jurisdiction of any comments or objections.

(10) Plans implemented under this section shall not apply to commute trips for seasonal agricultural employees.

(11) Plans implemented under this section shall not apply to construction worksites when the expected duration of the construction project is less than two years.

(12) If an affected urban growth area has not previously implemented a commute trip reduction program and the state has funded solutions to state highway deficiencies to address the area's exceeding the person hours of delay threshold, the affected urban growth area shall be exempt from the duties of this section for a period not exceeding two years.

**Sec.**  RCW 70A.15.4040 and 2020 c 20 s 1127 are each amended to read as follows:

The requirements in this section are suspended until December 31, 2023. State agencies must suspend rules and associated activities until December 31, 2023. Employers may not be required to adopt a commute trip reduction plan or take any action pursuant to this section during the time of suspension.

(1) State agency worksites are subject to the same requirements under this section and RCW 70A.15.4050 as private employers.

(2) Not more than ninety days after the adoption of a jurisdiction's commute trip reduction plan, each major employer in that jurisdiction shall perform a baseline measurement consistent with the rules established by the department of transportation under RCW 70A.15.4060. Not more than ninety days after receiving the results of the baseline measurement, each major employer shall develop a commute trip reduction program and shall submit a description of that program to the jurisdiction for review. The program shall be implemented not more than ninety days after approval by the jurisdiction.

(3) A commute trip reduction program of a major employer shall consist of, at a minimum (a) designation of a transportation coordinator and the display of the name, location, and telephone number of the coordinator in a prominent manner at each affected worksite; (b) regular distribution of information to employees regarding alternatives to single-occupant vehicle commuting; (c) a regular review of employee commuting and reporting of progress toward meeting the single-occupant vehicle reduction goals to the county, city, or town consistent with the method established in the commute trip reduction plan and the rules established by the department of transportation under RCW 70A.15.4060; and (d) implementation of a set of measures designed to achieve the applicable commute trip reduction goals adopted by the jurisdiction. Such measures may include but are not limited to:

(i) Provision of preferential parking or reduced parking charges, or both, for high occupancy vehicles and motorcycles;

(ii) Instituting or increasing parking charges for single-occupant vehicles;

(iii) Provision of commuter ride matching services to facilitate employee ride sharing for commute trips;

(iv) Provision of subsidies for transit fares;

(v) Provision of vans for van pools;

(vi) Provision of subsidies for car pooling or van pooling;

(vii) Permitting the use of the employer's vehicles for car pooling or van pooling;

(viii) Permitting flexible work schedules to facilitate employees' use of transit, car pools, or van pools;

(ix) Cooperation with transportation providers to provide additional regular or express service to the worksite;

(x) Construction of special loading and unloading facilities for transit, car pool, and van pool users;

(xi) Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;

(xii) Provision of a program of parking incentives such as a rebate for employees who do not use the parking facility;

(xiii) Establishment of a program to permit employees to work part or full time at home or at an alternative worksite closer to their homes;

(xiv) Establishment of a program of alternative work schedules such as compressed workweek schedules which reduce commuting; and

(xv) Implementation of other measures designed to facilitate the use of high occupancy vehicles such as on-site day care facilities and emergency taxi services.

(4) Employers or owners of worksites may form or utilize existing transportation management associations or other transportation-related associations authorized by RCW 35.87A.010 to assist members in developing and implementing commute trip reduction programs.

(5) Employers shall make a good faith effort towards achievement of the goals identified in RCW 70A.15.4020(4)(d).

**Sec.**  RCW 70A.15.4050 and 2020 c 20 s 1128 are each amended to read as follows:

The requirements in this section are suspended until December 31, 2023. Counties and cities must suspend local ordinances and associated activities until December 31, 2023. Employers may not be required to adopt a commute trip reduction plan or take any action pursuant to this section during the time of suspension.

(1) Each jurisdiction implementing a commute trip reduction plan under this chapter or as part of a plan or ordinance developed under RCW 36.70A.070 shall review each employer's initial commute trip reduction program to determine if the program is likely to meet the applicable commute trip reduction goals. The employer shall be notified by the jurisdiction of its findings. If the jurisdiction finds that the program is not likely to meet the applicable commute trip reduction goals, the jurisdiction will work with the employer to modify the program as necessary. The jurisdiction shall complete review of each employer's initial commute trip reduction program within ninety days of receipt.

(2) Employers implementing commute trip reduction programs are expected to undertake good faith efforts to achieve the goals outlined in RCW 70A.15.4020(4). Employers are considered to be making a good faith effort if the following conditions have been met:

(a) The employer has met the minimum requirements identified in RCW 70A.15.4040;

(b) The employer has notified the jurisdiction of its intent to substantially change or modify its program and has either received the approval of the jurisdiction to do so or has acknowledged that its program may not be approved without additional modifications;

(c) The employer has provided adequate information and documentation of implementation when requested by the jurisdiction; and

(d) The employer is working collaboratively with its jurisdiction to continue its existing program or is developing and implementing program modifications likely to result in improvements to the program over an agreed upon length of time.

(3) Each jurisdiction shall review at least once every two years each employer's progress and good faith efforts toward meeting the applicable commute trip reduction goals. If an employer makes a good faith effort, as defined in this section, but is not likely to meet the applicable commute trip reduction goals, the jurisdiction shall work collaboratively with the employer to make modifications to the commute trip reduction program. Failure of an employer to reach the applicable commute trip reduction goals is not a violation of this chapter.

(4) If an employer fails to make a good faith effort and fails to meet the applicable commute trip reduction goals, the jurisdiction shall work collaboratively with the employer to propose modifications to the program and shall direct the employer to revise its program within thirty days to incorporate those modifications or modifications which the jurisdiction determines to be equivalent.

(5) ((~~Each~~)) Beginning December 31, 2023, each jurisdiction implementing a commute trip reduction plan pursuant to this chapter may impose civil penalties, in the manner provided in chapter 7.80 RCW, for failure by an employer to implement a commute trip reduction program or to modify its commute trip reduction program as required in subsection (4) of this section. No major employer may be held liable for civil penalties for failure to reach the applicable commute trip reduction goals. No major employer shall be liable for civil penalties under this chapter if failure to achieve a commute trip reduction program goal was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith.

(6) Jurisdictions shall notify major employers of the procedures for applying for goal modification or exemption from the commute trip reduction requirements based on the guidelines established by the commute trip reduction board authorized under RCW 70A.15.4060.

**Sec.**  RCW 82.08.0287 and 2020 c 20 s 1472 are each amended to read as follows:

((~~(1)~~)) The tax imposed by this chapter does not apply to sales of passenger motor vehicles which are to be used primarily for ((~~commuter ride sharing or~~)) ride sharing for persons with special transportation needs, as defined in RCW 46.74.010, if the vehicles are used as ride-sharing vehicles for thirty-six consecutive months beginning from the date of purchase.

((~~(2) To qualify for the tax exemption, those passenger motor vehicles with five or six passengers, including the driver, used for commuter ride sharing, must be operated either within the state's eight largest counties that are required to develop commute trip reduction plans as directed by chapter 70A.15 RCW or in other counties, or cities and towns within those counties, that elect to adopt and implement a commute trip reduction plan. Additionally at least one of the following conditions must apply: (a) The vehicle must be operated by a public transportation agency for the general public; or (b) the vehicle must be used by a major employer, as defined in RCW 70A.15.4010 as an element of its commute trip reduction program for their employees; or (c) the vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work. Individual employee owned and operated motor vehicles will require certification that the vehicle is registered with a major employer or a public transportation agency. Major employers who own and operate motor vehicles for their employees must certify that the commuter ride-sharing arrangement conforms to a carpool/vanpool element contained within their commute trip reduction program.~~))

**Sec.**  RCW 82.12.0282 and 2020 c 20 s 1477 are each amended to read as follows:

((~~(1)~~)) The tax imposed by this chapter does not apply with respect to the use of passenger motor vehicles used primarily for ((~~commuter ride sharing or~~)) ride sharing for persons with special transportation needs, as defined in RCW 46.74.010, if the vehicles are used as ride-sharing vehicles for thirty-six consecutive months beginning with the date of first use.

((~~(2) To qualify for the tax exemption, those passenger motor vehicles with five or six passengers, including the driver, used for commuter ride sharing, must be operated either within the state's eight largest counties that are required to develop commute trip reduction plans as directed by chapter 70A.15 RCW or in other counties, or cities and towns within those counties, that elect to adopt and implement a commute trip reduction plan. Additionally at least one of the following conditions must apply: (a) The vehicle must be operated by a public transportation agency for the general public; or (b) the vehicle must be used by a major employer, as defined in RCW 70A.15.4010 as an element of its commute trip reduction program for their employees; or (c) the vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work. Individual employee owned and operated motor vehicles will require certification that the vehicle is registered with a major employer or a public transportation agency. Major employers who own and operate motor vehicles for their employees must certify that the commuter ride-sharing arrangement conforms to a carpool/vanpool element contained within their commute trip reduction program.~~))

NEW SECTION. **Sec.**  Sections 6 through 8 of this act expire December 31, 2023.

NEW SECTION. **Sec.**  Sections 9 and 10 of this act expire July 1, 2023.

NEW SECTION. **Sec.**  The provisions of this act shall not impair any contracts signed on or before the effective date of this section and the payments obligated by those contracts for delivery of vehicles from a manufacturer or dealer to a government agency or employer even if they occur after the effective date of this section.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**--- END ---**