

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5836**

Chapter 379, Laws of 2011

62nd Legislature  
2011 Regular Session

PRIVATE TRANSPORTATION PROVIDERS--USE OF PUBLIC TRANSPORTATION  
FACILITIES

EFFECTIVE DATE: 07/22/11

Passed by the Senate April 22, 2011  
YEAS 45 NAYS 0

BRAD OWEN

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**President of the Senate**

Passed by the House April 21, 2011  
YEAS 97 NAYS 0

FRANK CHOPP

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**Speaker of the House of Representatives**

Approved May 16, 2011, 3:51 p.m.

CHRISTINE GREGOIRE

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**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5836** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

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**Secretary**

FILED

May 17, 2011

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5836**

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AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 2011 Regular Session

**State of Washington                      62nd Legislature                      2011 Regular Session**

**By** Senate Transportation (originally sponsored by Senators King, Haugen, Hobbs, Delvin, and Shin)

READ FIRST TIME 02/25/11.

1            AN ACT Relating to allowing certain private transportation  
2 providers to use certain public transportation facilities; amending RCW  
3 46.61.165, 47.04.290, and 47.52.025; adding a new section to chapter  
4 47.04 RCW; and creating a new section.

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

6            **Sec. 1.** RCW 46.61.165 and 1999 c 206 s 1 are each amended to read  
7 as follows:

8            (1) The state department of transportation and the local  
9 authorities are authorized to reserve all or any portion of any highway  
10 under their respective jurisdictions, including any designated lane or  
11 ramp, for the exclusive or preferential use of one or more of the  
12 following: (a) Public transportation vehicles (~~(or)~~); (b) private  
13 motor vehicles carrying no fewer than a specified number of passengers;  
14 or (c) the following private transportation provider vehicles if the  
15 vehicle has the capacity to carry eight or more passengers, regardless  
16 of the number of passengers in the vehicle, and if such use does not  
17 interfere with the efficiency, reliability, and safety of public  
18 transportation operations: (i) Auto transportation company vehicles  
19 regulated under chapter 81.68 RCW; (ii) passenger charter carrier

1 vehicles regulated under chapter 81.70 RCW, except marked or unmarked  
2 stretch limousines and stretch sport utility vehicles as defined under  
3 department of licensing rules; (iii) private nonprofit transportation  
4 provider vehicles regulated under chapter 81.66 RCW; and (iv) private  
5 employer transportation service vehicles, when such limitation will  
6 increase the efficient utilization of the highway or will aid in the  
7 conservation of energy resources.

8 (2) Any transit-only lanes that allow other vehicles to access  
9 abutting businesses that are authorized pursuant to subsection (1) of  
10 this section may not be authorized for the use of private  
11 transportation provider vehicles as described under subsection (1) of  
12 this section.

13 (3) The state department of transportation and the local  
14 authorities authorized to reserve all or any portion of any highway  
15 under their respective jurisdictions, for exclusive or preferential  
16 use, may prohibit the use of a high occupancy vehicle lane by the  
17 following private transportation provider vehicles: (a) Auto  
18 transportation company vehicles regulated under chapter 81.68 RCW; (b)  
19 passenger charter carrier vehicles regulated under chapter 81.70 RCW,  
20 and marked or unmarked limousines and stretch sport utility vehicles as  
21 defined under department of licensing rules; (c) private nonprofit  
22 transportation provider vehicles regulated under chapter 81.66 RCW; and  
23 (d) private employer transportation service vehicles, when the average  
24 transit speed in the high occupancy vehicle lane fails to meet  
25 department of transportation standards and falls below forty-five miles  
26 per hour at least ninety percent of the time during the peak hours, as  
27 determined by the department of transportation or the local authority,  
28 whichever operates the facility.

29 (4) Regulations authorizing such exclusive or preferential use of  
30 a highway facility may be declared to be effective at all times or at  
31 specified times of day or on specified days. Violation of a  
32 restriction of highway usage prescribed by the appropriate authority  
33 under this section is a traffic infraction.

34 (5) Local authorities are encouraged to establish a process for  
35 private transportation providers, as described under subsections (1)  
36 and (3) of this section, to apply for the use of public transportation  
37 facilities reserved for the exclusive or preferential use of public  
38 transportation vehicles. The application and review processes should

1 be uniform and should provide for an expeditious response by the local  
2 authority. Whenever practicable, local authorities should enter into  
3 agreements with such private transportation providers to allow for the  
4 reasonable use of these facilities.

5 (6) For the purposes of this section, "private employer  
6 transportation service" means regularly scheduled, fixed-route  
7 transportation service that is similarly marked or identified to  
8 display the business name or logo on the driver and passenger sides of  
9 the vehicle, meets the annual certification requirements of the  
10 department of transportation, and is offered by an employer for the  
11 benefit of its employees.

12 **Sec. 2.** RCW 47.04.290 and 2008 c 257 s 1 are each amended to read  
13 as follows:

14 (1) Any local transit agency that has received state funding for a  
15 park and ride lot shall make reasonable accommodation for use of that  
16 lot by: Auto transportation companies regulated under chapter 81.68  
17 RCW (~~and~~); passenger charter carriers regulated under chapter 81.70  
18 RCW, except marked or unmarked stretch limousines and stretch sport  
19 utility vehicles as defined under department of licensing rules;  
20 private, nonprofit transportation providers regulated under chapter  
21 81.66 RCW (~~, that intend to provide or already provide regularly~~  
22 ~~scheduled service at that lot~~); and private employer transportation  
23 service vehicles, provided that such use does not interfere with the  
24 efficiency, reliability, and safety of public transportation  
25 operations. The accommodation must be in the form of an agreement  
26 between the applicable local transit agency and the private (~~transit~~)  
27 transportation provider (~~regulated under chapter 81.68 or 81.66 RCW~~).  
28 The transit agency may require that the agreement include provisions to  
29 recover actual costs and fair market value for the use of the lot and  
30 its related facilities and to provide adequate insurance and  
31 indemnification of the transit agency, and other reasonable provisions  
32 to ensure that the private (~~transit~~) transportation provider's use  
33 does not unduly burden the transit agency. The transit agency may  
34 consider benefits to its public transportation system when establishing  
35 an amount to charge for the use of the park and ride lot and its  
36 related facilities. If the agreement includes provisions to recover  
37 actual costs, the private transportation provider is responsible to

1 remit the full actual costs of park and ride lot use to the appropriate  
2 transit agency. No accommodation is required, and any agreement may be  
3 terminated, if the park and ride lot is at or exceeds ninety percent  
4 capacity between the hours of 6:00 a.m. and 4:00 p.m., Monday through  
5 Friday for two consecutive months. Additionally, any agreement may be  
6 terminated if the private transportation provider violates any policies  
7 guiding the terms of use of the park and ride lot. The transit agency  
8 may reserve the authority to designate which pick-up and drop-off zones  
9 of the park and ride lot may be used by the private transportation  
10 provider.

11 (2) A local transit agency described under subsection (1) of this  
12 section may enter into a cooperative agreement with a taxicab company  
13 regulated under chapter 81.72 RCW in order to accommodate the taxicab  
14 company at the agency's park and ride lot, provided the taxicab company  
15 must agree to provide service with reasonable availability, subject to  
16 schedule coordination provisions as agreed to by the parties.

17 (3) For the purposes of this section, "private employer  
18 transportation service" means regularly scheduled, fixed-route  
19 transportation service that is similarly marked or identified to  
20 display the business name or logo on the driver and passenger sides of  
21 the vehicle, meets the annual certification requirements of the  
22 department, and is offered by an employer for the benefit of its  
23 employees.

24 (4) For the purposes of this section, "private transportation  
25 provider" means:

26 (a) A company regulated under chapter 81.68 RCW; chapter 81.70 RCW,  
27 except marked or unmarked stretch limousines and stretch sport utility  
28 vehicles as defined under department of licensing rules; and chapter  
29 81.66 RCW; and

30 (b) An entity providing private employer transportation service.

31 (5)(a) Local authorities are encouraged to establish a process for  
32 private transportation providers, described under subsections (1) and  
33 (4) of this section, to apply for the use of park and ride facilities.

34 (b) The process must provide a list of facilities that the local  
35 authority determines to be unavailable for use by the private  
36 transportation provider and must provide the criteria used to reach  
37 that determination.

1       (c) The application and review processes must be uniform and should  
2 provide for an expeditious response by the authority.

3       (6) The department must convene a stakeholder process that includes  
4 interested public and private transportation providers, which must  
5 develop standard permit forms, clear explanations of permit rate  
6 calculations, and standard indemnification provisions that may be used  
7 by all local authorities.

8       **Sec. 3.** RCW 47.52.025 and 1974 ex.s. c 133 s 1 are each amended to  
9 read as follows:

10       (1) Highway authorities of the state, counties, and incorporated  
11 cities and towns, in addition to the specific powers granted in this  
12 chapter, shall also have, and may exercise, relative to limited access  
13 facilities, any and all additional authority, now or hereafter vested  
14 in them relative to highways or streets within their respective  
15 jurisdictions, and may regulate, restrict, or prohibit the use of such  
16 limited access facilities by various classes of vehicles or traffic.  
17 Such highway authorities may reserve any limited access facility or  
18 portions thereof, including designated lanes or ramps for the exclusive  
19 or preferential use of (a) public transportation vehicles, (b)  
20 privately owned buses, (~~(c)~~) (c) private motor vehicles carrying not  
21 less than a specified number of passengers, or (d) the following  
22 private transportation provider vehicles if the vehicle has the  
23 capacity to carry eight or more passengers, regardless of the number of  
24 passengers in the vehicle, and if such use does not interfere with the  
25 efficiency, reliability, and safety of public transportation  
26 operations: (i) Auto transportation company vehicles regulated under  
27 chapter 81.68 RCW; (ii) passenger charter carrier vehicles regulated  
28 under chapter 81.70 RCW, except marked or unmarked stretch limousines  
29 and stretch sport utility vehicles as defined under department of  
30 licensing rules; (iii) private nonprofit transportation provider  
31 vehicles regulated under chapter 81.66 RCW; and (iv) private employer  
32 transportation service vehicles, when such limitation will increase the  
33 efficient utilization of the highway facility or will aid in the  
34 conservation of energy resources. Regulations authorizing such  
35 exclusive or preferential use of a highway facility may be declared to  
36 be effective at all time or at specified times of day or on specified  
37 days.

1       (2) Any transit-only lanes that allow other vehicles to access  
2 abutting businesses that are reserved pursuant to subsection (1) of  
3 this section may not be authorized for the use of private  
4 transportation provider vehicles as described under subsection (1) of  
5 this section.

6       (3) Highway authorities of the state, counties, or incorporated  
7 cities and towns may prohibit the use of limited access facilities by  
8 the following private transportation provider vehicles: (a) Auto  
9 transportation company vehicles regulated under chapter 81.68 RCW; (b)  
10 passenger charter carrier vehicles regulated under chapter 81.70 RCW,  
11 and marked or unmarked limousines and stretch sport utility vehicles as  
12 defined under department of licensing rules; (c) private nonprofit  
13 transportation provider vehicles regulated under chapter 81.66 RCW; and  
14 (d) private employer transportation service vehicles, when the average  
15 transit speed in the high occupancy vehicle travel lane fails to meet  
16 department standards and falls below forty-five miles per hour at least  
17 ninety percent of the time during the peak hours for two consecutive  
18 months.

19       (4)(a) Local authorities are encouraged to establish a process for  
20 private transportation providers, described under subsections (1) and  
21 (3) of this section, to apply for the use of limited access facilities  
22 that are reserved for the exclusive or preferential use of public  
23 transportation vehicles.

24       (b) The process must provide a list of facilities that the local  
25 authority determines to be unavailable for use by the private  
26 transportation provider and must provide the criteria used to reach  
27 that determination.

28       (c) The application and review processes must be uniform and should  
29 provide for an expeditious response by the authority.

30       (5) For the purposes of this section, "private employer  
31 transportation service" means regularly scheduled, fixed-route  
32 transportation service that is similarly marked or identified to  
33 display the business name or logo on the driver and passenger sides of  
34 the vehicle, meets the annual certification requirements of the  
35 department, and is offered by an employer for the benefit of its  
36 employees.

1        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 47.04 RCW  
2 to read as follows:

3        When designing portions of a highway that are intended to be used  
4 as portions reserved for the exclusive or preferential use of public  
5 transportation vehicles, state and local jurisdictions shall consider  
6 whether the design will safely accommodate private transportation  
7 provider vehicles that may be authorized to use the reserved portions  
8 under RCW 46.61.165 and 47.52.025 without interfering with the  
9 efficiency, reliability, and safety of public transportation  
10 operations.

11        NEW SECTION.    **Sec. 5.**    If any part of this act is found to be in  
12 conflict with mitigation requirements under the state environmental  
13 policy act (chapter 43.21C RCW) or the national environmental policy  
14 act (42 U.S.C. Secs. 4321 through 4347) or in any other way conflicts  
15 with federal requirements that are a condition or part of the  
16 allocation of federal funds to the state or local facilities, the  
17 conflicting part of this act is inoperative solely to the extent of the  
18 conflict and with respect to the agencies directly affected, and this  
19 finding does not affect the operation of the remainder of this act in  
20 its application to the agencies concerned. Rules adopted under this  
21 act must meet federal requirements that are a necessary condition to  
22 the receipt of federal funds by the state or local authorities.

Passed by the Senate April 22, 2011.

Passed by the House April 21, 2011.

Approved by the Governor May 16, 2011.

Filed in Office of Secretary of State May 17, 2011.