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**ENGROSSED SUBSTITUTE HOUSE BILL 2131**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** House Business & Financial Services (originally sponsored by Representative Kirby)

AN ACT Relating to insurance for providers of commercial transportation services; and adding a new chapter to Title 48 RCW.

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

NEW SECTION. **Sec.**  This act may be known and cited as the insurance for providers of commercial transportation services act.

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

(1) "Commercial transportation services" or "services" means all times the driver is logged in to a commercial transportation services provider's digital network or software application or until the passenger has left the personal vehicle, whichever is later.

(2) "Commercial transportation services provider" means a corporation, partnership, sole proprietorship, or other entity, operating in Washington, that uses a digital network or software application to connect passengers to drivers for the purpose of providing a prearranged ride.

(3) "Driver" means an individual who uses a personal vehicle to provide services for passengers matched through a commercial transportation services provider's digital network or software application. A driver need not be an employee of a commercial transportation services provider.

(4) "Passenger" means a passenger in a personal vehicle for whom transport is provided, including:

(a) An individual who uses a commercial transportation services provider's digital network or software application to connect with a driver to obtain services in the driver's vehicle for the individual and anyone in the individual's party; or

(b) Anyone for whom another individual uses a commercial transportation services provider's digital network or software application to connect with a driver to obtain services in the driver's vehicle.

(5) "Personal vehicle" means a vehicle that is used by a driver in connection with providing services for a commercial transportation services provider.

(6) "Prearranged ride" means a route of travel between points chosen by the passenger and arranged with a driver through the use of a commercial transportation services provider's digital network or software application. The ride begins when a driver accepts a requested ride through a digital network or software application, continues while the driver transports the passenger in a personal vehicle, and ends when the passenger departs from the personal vehicle.

NEW SECTION. **Sec.**  (1)(a) Before being used to provide commercial transportation services, every personal vehicle must be covered by a primary automobile insurance policy that specifically covers commercial transportation services. Except as provided in subsection (2) of this section, a commercial transportation services provider must secure this policy for every personal vehicle used to provide commercial transportation services. For purposes of this section, a "primary automobile insurance policy" is not a private passenger automobile insurance policy.

(b)(i) 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 provider's digital network or software application and at all times a passenger is in the vehicle as part of a prearranged ride, as follows:

(A) Liability coverage, while providing commercial transportation services applicable during the period before a driver accepts a requested ride through a digital network or software application, 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) Uninsured motorist coverage and underinsured motorist coverage in the amount of no less than fifty thousand dollars per person for bodily injury and one hundred thousand dollars per accident for bodily injury of all persons;

(C) Personal injury protection coverage pursuant to RCW 48.22.095; and

(D) Comprehensive and collision coverage with a maximum deductible of five hundred dollars.

(ii) The primary automobile insurance policy required under this subsection must provide the following coverages, 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) Uninsured motorist coverage and underinsured motorist coverage in the amount of one million dollars;

(C) Personal injury protection coverage pursuant to RCW 48.22.095; and

(D) Comprehensive and collision coverage with a maximum deductible of five hundred dollars.

(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 provider of commercial transportation services and using a personal vehicle to provide commercial transportation 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 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 as provided in subsection (1) of this section;

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

(iii) A combination of both the commercial transportation services provider and the 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 services are being provided.

(4) If a driver purchases a primary automobile insurance policy as allowed under subsection (2) of this section, the commercial transportation services provider 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) The insurance coverage requirements described in subsections (2) and (3) of this section do not apply to drivers and entities that have coverage pursuant to chapter 46.72 or 46.72A RCW.

(7) This section does not 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 driver is logged in to a commercial transportation services provider's digital network or software application or while a passenger is in the vehicle.

(8)(a) A commercial transportation services provider must make the following disclosures to a prospective driver in the prospective driver's terms of service:

WHILE OPERATING ON THE COMMERCIAL TRANSPORTATION SERVICES PROVIDER'S DIGITAL NETWORK OR SOFTWARE APPLICATION, 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 SERVICES HAS A LIEN AGAINST IT, YOU MUST NOTIFY THE LIENHOLDER THAT YOU WILL BE USING THE VEHICLE FOR COMMERCIAL TRANSPORTATION 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.

(9) 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 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 services to a passenger, the commercial transportation services provider that matched the driver and passenger must provide insurance coverage; or

(b) If the driver is logged in to more than one commercial transportation services provider's digital network or software application 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 services.

(10) In an accident or claims coverage investigation, a commercial transportation services provider 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 driver and (b) within ten business days after receiving a request, a copy of the company's electronic record showing the precise times that the participating driver logged on and off the commercial transportation services provider's digital network or software application on the day the accident or other loss occurred. The commercial transportation services provider 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.

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

(12) 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 services.

NEW SECTION. **Sec.**  Sections 1 through 3 of this act constitute a new chapter in Title 48 RCW.

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