S-1276.5

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**SUBSTITUTE SENATE BILL 5550**

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

**By** Senate Transportation (originally sponsored by Senators Habib and Fain)

AN ACT Relating to providers of commercial transportation services; amending RCW 18.235.020, 46.72.010, 51.12.020, and 81.72.240; reenacting and amending RCW 42.56.270 and 43.79A.040; adding a new chapter to Title 46 RCW; and repealing RCW 46.72.073, 46.72A.053, 51.12.180, 51.12.183, 51.12.185, 51.16.240, and 81.72.230.

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

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

(1) "Department" means the department of licensing.

(2) "Personal vehicle" means a vehicle that is used by a transportation network company driver in connection with providing services for a transportation network company that meets the vehicle criteria in this chapter and that is authorized by the transportation network company.

(3) "Prearranged ride" means a route of travel between points chosen by the passenger and arranged with a driver through the use of a transportation network company'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.

(4) "Transportation network company" 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. A transportation network company is neither a taxicab company, passenger charter carrier, or auto transportation company, as described in Title 81 RCW, nor a limousine or for hire operator, as defined in this title. A transportation network company is not deemed to own, control, operate, or manage the personal vehicles used by transportation network company drivers. A transportation network company does not include a political subdivision or other entity exempt from federal income tax under 26 U.S.C. Sec. 115 of the federal internal revenue code.

(5) "Transportation network company driver" or "driver" means an individual who uses a personal vehicle to provide services for passengers matched through a transportation network company's digital network or software application. A driver is not a for hire operator as that term is used in this title.

(6) "Transportation network company passenger" or "passenger" means a passenger in a personal vehicle for whom transport is provided, including:

(a) An individual who uses a transportation network company'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 transportation network company's digital network or software application to connect with a driver to obtain services in the driver's vehicle.

(7) "Transportation network company services" or "services" means all times the driver is logged in to a transportation network company's digital network or software application or until the passenger has left the personal vehicle, whichever is later. The term 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.

NEW SECTION. **Sec.**  (1)(a) A transportation network company must comply with the requirements of this chapter, including those relating to a driver's compliance with insurance, qualification, conduct, nondiscrimination, maximum work hours, criminal history, and driving record requirements. Any penalty for a violation of this chapter may be assessed only against the transportation network company, unless (i) the transportation network company could not have reasonably known of the violation or (ii) the transportation network company knew of the violation and expeditiously took action to address the violation to the satisfaction of the department.

(b) This chapter does not relieve a driver from complying with requirements applicable to private vehicles set out in this title, including those relating to drivers' licenses, vehicle registrations, minimum insurance, rules of the road, and the penalties associated with any violation. Unless otherwise required, a transportation network company driver is not required to register the vehicle the driver uses for transportation network company services as a commercial or for hire vehicle.

(2) Except as provided in rules adopted by the department pursuant to this chapter, chapter 18.235 RCW governs unlicensed practice, unprofessional conduct, the issuance and denial of permits, and the discipline of permittees under this chapter.

(3) A transportation network company must comply with the registered agent requirements of chapter 23B.05 RCW.

(4) Pursuant to rules adopted by the department that are consistent with public safety and consumer protection, every transportation network company operating under this chapter must submit a quarterly report to the department, providing at a minimum the total number of drivers using its digital network or software application, the total number of prearranged rides, the total hours that drivers are logged in to its network, the total hours spent providing transportation network company services, and describing any accident in which a personal vehicle was involved while carrying a passenger.

(5) A transportation network company may not, with respect to drivers using its digital network or software application, or drivers using the digital network or software application of another transportation network company, require drivers to agree to a noncompetition agreement or otherwise prohibit a driver from working with another transportation network company. However, a transportation network company may prohibit a driver's use of any brand or mark of the company in a way that is confusing to the public.

(6) Every transportation network company must, if achievable, make its digital network or software application accessible to persons with disabilities.

NEW SECTION. **Sec.**  (1)(a) Before being used to provide transportation network company services, every personal vehicle must be covered by a primary automobile insurance policy that specifically covers transportation network company services. Except as provided in subsection (2) of this section, a transportation network company must secure this policy for every personal vehicle used to provide 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 transportation network company's digital network or software application and at all times a passenger is in the vehicle as part of a prearranged ride.

(i) The primary automobile insurance policy required under this subsection must provide liability coverage, during transportation network company 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.

(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; and

(B) Uninsured motorist coverage and underinsured motorist coverage in the amount of one million 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 transportation network company driver and using a personal vehicle to provide 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 transportation 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 transportation network company as provided under subsection (1) of this section;

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

(iii) A combination of both the transportation network company 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 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 transportation network company services as a driver, a transportation network company must provide written proof to the driver that the transportation network company driver is covered by a primary automobile insurance policy that meets the requirements of this section.

(5)(a) If a transportation network company maintains a primary automobile insurance policy to satisfy the obligations of this section, it must provide proof of the policy to the department.

(b) Alternatively, if a driver purchases a primary automobile insurance policy as allowed under subsection (2) of this section, the transportation network company must verify that the driver has done so. Additionally, the transportation network company must provide proof to the department of the insurance required under subsection (2)(b) of this section.

(c) Upon request from the department, drivers and transportation network companies must provide copies of the policies required under this section to the department.

(6) A primary automobile insurance policy required under subsection (1) or (2) of this section may be placed with an insurer licensed under Title 48 RCW to provide insurance in the state of Washington or as an eligible surplus line insurance policy as described in RCW 48.15.040.

(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 driver is logged in to a transportation network company's digital network or software application or while a passenger is in the vehicle.

(8) 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 transportation network company that matched the driver and passenger must provide insurance coverage; or

(b) If the driver is logged in to more than one transportation network company 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 transportation network company services.

(9) In an accident or claims coverage investigation, a transportation 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 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 transportation network company's digital network or software application on the day the accident or other loss occurred. The transportation 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.

(10) This section does not modify or abrogate any otherwise applicable insurance requirement set forth in Title 48 RCW.

(11) After July 1, 2016, an insurance company regulated under Title 48 RCW 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 transportation network company services.

(12) A city, county, political subdivision, or special purpose district may not:

(a) Adopt a law, rule, or ordinance that is in conflict with this chapter;

(b) Except as provided in subsection (13) of this section, require a transportation network company or driver to obtain any additional approval to provide services, such as a permit or license, before operating within the jurisdiction. However, this subsection (12)(b) does not apply to standard business licenses and the levying of business-related taxes at the local level; or

(c) Prohibit the provision of transportation network company services or the use of such services within the jurisdiction.

(13) Cities with a population of more than two hundred thousand and counties with a population of more than one million may (a) require a transportation network company to obtain additional approval to provide services, such as a permit or license, before operating within the jurisdiction, (b) impose regulatory fees to cover the costs of enforcement, and (c) impose monetary penalties by civil infraction for the violation of any of the provisions of this chapter. If a city or county exercises the authority provided under this subsection, it must provide quarterly reports to the department regarding its regulatory activities.

NEW SECTION. **Sec.**  (1) The following requirements apply to the provision of services:

(a) A driver may not solicit or accept the on-demand summoning of a ride.

(b) A transportation network company must make available to prospective passengers and drivers the method by which the transportation network company calculates fares or the applicable rates being charged and an option to receive an estimated fare.

(c) Upon completion of a prearranged ride, a transportation network company must transmit to the passenger an electronic receipt, either by electronic mail or by text message, which must document:

(i) The point of origin and destination of the passenger's trip;

(ii) The total duration and distance of the passenger's trip;

(iii) The total fare paid, including the base fare and any additional charges incurred or distance traveled or duration of the passenger's trip; and

(iv) The driver's first name and license plate number.

(d) Before permitting a person to act as a driver on its digital network or software application, a transportation network company must confirm that the person is at least twenty-one years of age and possesses:

(i) A valid driver's license;

(ii) Proof of private passenger automobile insurance;

(iii) Proof that the vehicle is registered in Washington; and

(iv) Pursuant to rules adopted by the department, proof that the person has certified that he or she does not experience any condition that interferes with his or her ability to safely provide services pursuant to this chapter.

(e) A driver may not provide prearranged rides for more than twelve consecutive hours or more than twelve hours in any twenty-four hour period, except that a driver may finish a prearranged ride that began before either time restriction.

(f) A transportation network company must implement an intoxicating substance policy for drivers that disallows any amount of intoxication of the driver while providing services. The transportation network company must include on its web site and mobile device application software a notice concerning the transportation network company's intoxicating substance policy.

(g)(i) Prior to providing transportation network company services, a transportation network company must require every personal vehicle to undergo a uniform vehicle safety inspection performed by an approved mechanic who must certify in writing that the vehicle is mechanically sound and fit for driving. The approved mechanic must also certify in writing that the exterior markings required under this section are legible and properly displayed.

(ii) The safety inspection required under this subsection (1)(g) must be conducted annually while the personal vehicle is being used to provide transportation network company services and include an inspection of the following:

(A) Foot brakes;

(B) Emergency brakes;

(C) Steering mechanism;

(D) Windshield;

(E) Rear window and other glass;

(F) Windshield wipers;

(G) Headlights;

(H) Taillights;

(I) Turn indicator lights;

(J) Stop lights;

(K) Front seat adjustment mechanism;

(L) The opening, closing, and locking capability of the doors;

(M) Horn;

(N) Speedometer;

(O) Bumpers;

(P) Muffler and exhaust system;

(Q) Tire conditions, including tread depth;

(R) Interior and exterior rearview mirrors; and

(S) Safety belts.

(iii) A transportation network company or a third party must retain inspection records for at least fourteen months after an inspection was conducted for each personal vehicle used by a driver.

(iv) For purposes of this subsection (1)(g), "approved mechanic" means a mechanic or technician who is certified with the national institute for automotive service excellence and does not own, lease, or drive a taxicab, for hire vehicle, or transportation network company-endorsed vehicle.

(h) A personal vehicle must have at least four doors and be designed to carry no more than eight passengers, including the driver.

(i)(i) A transportation network company must make the following disclosures to a prospective driver in the prospective driver's terms of service:

WHILE OPERATING ON THE TRANSPORTATION NETWORK COMPANY'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 TRANSPORTATION NETWORK COMPANY SERVICES FOR OUR TRANSPORTATION NETWORK COMPANY HAS A LIEN AGAINST IT, YOU MUST NOTIFY THE LIENHOLDER THAT YOU WILL BE USING THE VEHICLE FOR TRANSPORTATION NETWORK COMPANY SERVICES THAT MAY VIOLATE THE TERMS OF YOUR CONTRACT WITH THE LIENHOLDER.

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

(j) A transportation network company must make available to a passenger a customer support telephone number on its digital network, software application, or web site for passenger inquiries.

(k)(i) A transportation network company may not disclose to a third party any personally identifiable information concerning the user of the transportation network company's digital network or software application, unless:

(A) The transportation network company obtains the user's consent to disclose personally identifiable information;

(B) Disclosure is necessary to comply with a legal obligation; or

(C) Disclosure is necessary to protect or defend the terms and conditions for use of the service or to investigate violations of the terms and conditions.

(ii) The limitation on disclosure does not apply to the disclosure of aggregated user data.

(iii) The department may revoke a transportation network company's permit upon the department's finding that the company knowingly or negligently violated the passenger privacy provisions of this subsection (1)(k).

(2) Each transportation network company must require that each personal vehicle providing transportation network company services display a plainly visible exterior marking that identifies the personal vehicle as one providing such services.

(3)(a) Before a person is permitted to act as a driver through use of a transportation network company's digital network or software application, the person must undergo a criminal history record check for conviction records performed by the Washington state patrol or an entity approved by the department that meets standards adopted by rule by the department. A driver must undergo a criminal history record check every five years while serving as a driver. The department must retain the results of a criminal history record check for each driver that provides services for the transportation network company until five years after the criminal history record check was conducted or until the acquisition of an updated criminal history record check, whichever occurs first. A criminal history record check must remain confidential, may be used only for the purposes of this subsection (3), and is not subject to the disclosure requirements under chapter 42.56 RCW.

(b) A person who has been convicted of driving under the influence of drugs or alcohol in the previous five years before applying to become a driver may not serve as a driver.

(c)(i) If the criminal history record check reveals that the person has ever been convicted of the following offenses, the person may not serve as a driver:

(A) A sex offense, as described in chapters 9.68A and 9A.44 RCW;

(B) A violent offense, as defined in RCW 9.94A.030.

(ii) A person who has been convicted of a comparable offense to the offenses listed in (c)(i) of this subsection in another state may not serve as a driver.

(iii) If the criminal history record check reveals that the person has ever been convicted of the following felony offenses in the previous five years before applying to become a driver, the person may not serve as a driver:

(A) A felony offense involving fraud, as described in chapters 9.45 and 9A.60 RCW;

(B) Felony burglary, trespass, or vehicle prowling, as described in chapter 9A.52 RCW;

(C) Felony theft, robbery, extortion, or possession of stolen property, as described in chapter 9A.56 RCW.

(iv) A person who has been convicted of a comparable offense to the offenses listed in (c)(iii) of this subsection in another state in the previous five years before applying to become a driver may not serve as a driver.

(4)(a) Before permitting an individual to act as a driver on its digital network or software application, a transportation network company must obtain and review the individual's driving record.

(b) An individual with the following violations may not serve as a driver:

(i) More than three moving violations within the three-year period preceding the individual's application to serve as a driver; or

(ii) A violation for reckless driving under RCW 46.61.500; vehicular homicide under RCW 46.61.520; vehicular assault under RCW 46.61.522; negligent driving in the first or second degree under RCW 46.61.5249, 46.61.525, or 46.61.526; driving without a license under RCW 46.20.005; or driving with a revoked license under RCW 46.20.342 or 46.20.345.

(c) A transportation network company or a third party must retain the driving record for each driver that provides services for the transportation network company for at least three years.

(5) If any person files a complaint with the department against a transportation network company or driver, the department may inspect the transportation network company's records as reasonably necessary to investigate and resolve the complaint.

(6)(a) Except for a trip whose destination is more than thirty-five miles from where the passenger is picked up, a transportation network company and transportation network company drivers must provide services to the public in a nondiscriminatory manner, regardless of geographic location of the departure point or destination. A transportation network company or transportation network company driver may not refuse service or impose additional charges or conditions based on a passenger's race, religion, ethnicity, gender, sexual orientation, gender identity, or disability. Once a passenger and driver have been matched for the purpose of a prearranged ride, a driver may not refuse to transport a passenger, unless:

(i) The passenger is acting in an unlawful, disorderly, or endangering manner; or

(ii) The passenger is unable to care for himself or herself and is not in the charge of a responsible companion.

(b) A driver must permit a service animal to accompany a passenger on a prearranged ride.

(c)(i) If a passenger with physical or mental disabilities requires the use of mobility equipment, a driver must store such equipment in the vehicle during a prearranged ride, if the vehicle is reasonably capable of doing so. If the driver is unable to store a passenger's mobility equipment in the driver's vehicle, the driver must refer the passenger to another driver or transportation service with a vehicle that is equipped to accommodate such equipment, and may not charge the passenger a cancellation fee.

(ii) If a passenger is traveling with a child who requires the use of a child restraint system under RCW 46.61.687, a driver must allow the passenger to temporarily install the restraint system in the personal vehicle, if the vehicle is reasonably capable of accepting it. If the child restraint system is unable to be temporarily installed in the vehicle, the driver must refer the passenger to another driver or transportation service with a vehicle that is equipped to accommodate such a system, and may not charge the passenger a cancellation fee.

(7) Within ten days of receiving a complaint about a driver's alleged violation of subsection (6) of this section, the department must report the complaint to the transportation network company for which the driver provides services.

(8) A driver must immediately report to the transportation network company any refusal to transport a passenger pursuant to subsection (6)(a) of this section, and the transportation network company must annually report all such refusals to the department in a form and manner determined by the department.

NEW SECTION. **Sec.**  (1) A transportation network company may not operate without first having obtained a permit from the department. The department must require this permit to be renewed annually.

(2) The department must issue a permit to each transportation network company that meets the requirements of this chapter and pays to the department the fees required under subsection (3) of this section.

(3)(a) A transportation network company must pay the following fee to the department at the time of its initial application for a permit:

(i) Until July 1, 2016, the fee is one hundred thousand dollars; and

(ii) After July 1, 2016, the fee is five thousand dollars.

(b) Upon the annual renewal of a permit issued pursuant to this section, a transportation network company must pay the following applicable renewal fee, depending on the number of drivers shown in the transportation network company's most recent quarterly report sent to the department pursuant to section 2(4) of this act:

(i) For transportation network companies with ten or fewer drivers, the annual renewal fee is five thousand dollars;

(ii) For transportation network companies with between eleven and one hundred drivers, the annual renewal fee is twenty thousand dollars;

(iii) For transportation network companies with between one hundred one and one thousand drivers, the annual renewal fee is fifty thousand dollars; and

(iv) For transportation network companies with more than one thousand drivers, the annual renewal fee is one hundred thousand dollars.

(4) The department must determine the form and manner of the application for a transportation network company permit.

(5) Consistent with section 2(1)(a) of this act, the department may cancel, revoke, or suspend any permit issued under this chapter on any of the following grounds:

(a) The violation of any of the provisions of this chapter;

(b) The violation of an order, decision, rule, or requirement established by the department under this chapter;

(c) Failure of the transportation network company to pay a fee imposed on the company within the time required under law; or

(d) Failure of the transportation network company to maintain insurance coverage, if required under this chapter.

(6) The department may deny an application under this chapter, or refuse to renew the permit of a transportation network company, based on a determination that the transportation network company has not satisfied a civil penalty arising out of an administrative or enforcement action brought by the department.

NEW SECTION. **Sec.**  The transportation network company account is created in the custody of the state treasurer. All moneys received by the department pursuant to this chapter, and any interest earned on investments in the account, must be deposited into the account. Expenditures from the account may be used by the department for any purpose related to the regulation of transportation network companies that is consistent with this chapter. 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.

NEW SECTION. **Sec.**  (1) The department may adopt all rules specifically necessary to enforce this chapter.

(2) The department must adopt rules requiring a transportation network company to file with the department evidence of the transportation network company's insurance policies required under this chapter and proof of continued validity of these policies.

NEW SECTION. **Sec.**  All personally identifiable information collected under this chapter is exempt from disclosure under chapter 42.56 RCW.

**Sec.**  RCW 18.235.020 and 2013 c 322 s 29 are each amended to read as follows:

(1) This chapter applies only to the director and the boards and commissions having jurisdiction in relation to the businesses and professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The director has authority under this chapter in relation to the following businesses and professions:

(i) Auctioneers under chapter 18.11 RCW;

(ii) Bail bond agents and bail bond recovery agents under chapter 18.185 RCW;

(iii) Camping resorts' operators and salespersons under chapter 19.105 RCW;

(iv) Commercial telephone solicitors under chapter 19.158 RCW;

(v) Cosmetologists, barbers, manicurists, and estheticians under chapter 18.16 RCW;

(vi) Court reporters under chapter 18.145 RCW;

(vii) Driver training schools and instructors under chapter 46.82 RCW;

(viii) Employment agencies under chapter 19.31 RCW;

(ix) For hire vehicle operators under chapter 46.72 RCW;

(x) Limousines under chapter 46.72A RCW;

(xi) Notaries public under chapter 42.44 RCW;

(xii) Private investigators under chapter 18.165 RCW;

(xiii) Professional boxing, martial arts, and wrestling under chapter 67.08 RCW;

(xiv) Real estate appraisers under chapter 18.140 RCW;

(xv) Real estate brokers and salespersons under chapters 18.85 and 18.86 RCW;

(xvi) Scrap metal processors, scrap metal recyclers, and scrap metal suppliers under chapter 19.290 RCW;

(xvii) Security guards under chapter 18.170 RCW;

(xviii) Sellers of travel under chapter 19.138 RCW;

(xix) Timeshares and timeshare salespersons under chapter 64.36 RCW;

(xx) Transportation network companies under chapter 46.--- RCW (the new chapter created in section 17 of this act);

(xxi) Whitewater river outfitters under chapter 79A.60 RCW;

((~~(xxi)~~)) (xxii) Home inspectors under chapter 18.280 RCW;

((~~(xxii)~~)) (xxiii) Body artists, body piercers, and tattoo artists, and body art, body piercing, and tattooing shops and businesses, under chapter 18.300 RCW; and

((~~(xxiii)~~)) (xxiv) Appraisal management companies under chapter 18.310 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The state board for architects established in chapter 18.08 RCW;

(ii) The Washington state collection agency board established in chapter 19.16 RCW;

(iii) The state board of registration for professional engineers and land surveyors established in chapter 18.43 RCW governing licenses issued under chapters 18.43 and 18.210 RCW;

(iv) The funeral and cemetery board established in chapter 18.39 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;

(v) The state board of licensure for landscape architects established in chapter 18.96 RCW; and

(vi) The state geologist licensing board established in chapter 18.220 RCW.

(3) In addition to the authority to discipline license holders, the disciplinary authority may grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered under RCW 18.235.110 by the disciplinary authority.

**Sec.**  RCW 42.56.270 and 2014 c 192 s 6, 2014 c 174 s 5, and 2014 c 144 s 6 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; ((~~and~~))

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

(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; and

(23) The quarterly reports submitted by transportation network companies pursuant to section 2(4) of this act and any records provided to the department of licensing to facilitate the enforcement of chapter 46.--- RCW (the new chapter created in section 17 of this act).

**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, personal vehicles used to provide transportation network company services under chapter 46.--- RCW (the new chapter created in section 17 of this act), vehicles used by nonprofit transportation providers for ((~~elderly or handicapped~~)) persons with special transportation needs 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 51.12.020 and 2013 c 141 s 3 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 transportation network company driver providing transportation network company services unless a transportation network company and the transportation network company driver expressly agree otherwise in writing. For purposes of this subsection, a transportation network company driver qualifies under this subsection only if:

(a) The transportation network company does not prescribe specific hours during which a transportation network company driver must be logged into the transportation network company's digital platform or establish a minimum number of (i) prearranged rides accepted, (ii) hours worked, or (iii) miles traveled;

(b) The transportation network company imposes no restrictions on the transportation network company driver's ability to utilize digital platforms from other transportation network companies;

(c) The transportation network company does not assign the transportation network company driver a particular territory in which transportation network company services can be provided; and

(d) The transportation network company does not restrict a transportation network company driver from engaging in any other occupation or business.

(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 81.72.240 and 2011 c 190 s 8 are each amended to read as follows:

(1) By September 1, 2015, and at least every two years thereafter, any city, town, county, or port district setting the rates charged for taxicab services under this chapter must adjust rates to accommodate ((~~changes~~)) increases or decreases in the cost of industrial insurance ((~~or in other industry-wide costs~~)).

(2) By September 1, 2015, and at least every two years thereafter, any city, town, county, or port district regulating lease rates under this chapter must adjust rates to accommodate increases or decreases in the cost of industrial insurance. Any changes in lease rates take effect upon entry into a new lease.

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

**Sec.**  RCW 43.79A.040 and 2013 c 251 s 5 and 2013 c 88 s 1 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 Washington promise scholarship account, the Washington advanced college tuition payment program account, the accessible communities 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 stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, 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, the transportation network company account, 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 following acts or parts of acts are each repealed:

(1) RCW 46.72.073 (Certificate suspension or revocation—Failure to pay industrial insurance premiums—Rules—Cooperative agreements) and 2011 c 190 s 5;

(2) RCW 46.72A.053 (Certificate suspension or revocation—Failure to pay industrial insurance premiums—Rules—Cooperative agreements) and 2011 c 190 s 6;

(3) RCW 51.12.180 (For hire vehicle businesses and operators—Findings—Declaration) and 2011 c 190 s 1;

(4) RCW 51.12.183 (For hire vehicle businesses and operators—Mandatory coverage—Definitions) and 2011 c 190 s 2;

(5) RCW 51.12.185 (For hire vehicle owners—Retrospective rating program) and 2011 c 190 s 4;

(6) RCW 51.16.240 (For hire vehicle businesses and operators—Basis for premiums—Rules) and 2011 c 190 s 3; and

(7) RCW 81.72.230 (License suspension or revocation—Failure to pay industrial insurance premiums—Rules—Cooperative agreements) and 2011 c 190 s 7.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  Sections 1 through 8 of this act constitute a new chapter in Title 46 RCW.

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