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**SENATE BILL 5710**

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

**By** Senators Fain, Habib, Roach, Jayapal, Hobbs, Hasegawa, and Conway

AN ACT Relating to industrial insurance requirements and options for owners and lessees of for hire vehicles, limousines, and taxicabs; amending RCW 51.12.020, 51.12.185, and 81.72.240; and repealing RCW 46.72.073, 46.72A.053, 51.12.180, 51.12.183, 51.16.240, and 81.72.230.

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

**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) 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 51.12.185 and 2011 c 190 s 4 are each amended to read as follows:

(1) ((~~In order to assist the department with controlling costs related to the self-monitoring of industrial insurance claims by independent owner-operated for hire vehicle, limousine, and taxicab businesses,~~)) The department may appoint a panel of individuals with for hire vehicle, limousine, or taxicab transportation industry experience and expertise to advise the department.

(2) The owner or lessee of any for hire, limousine, or taxicab vehicle ((~~subject to mandatory industrial insurance pursuant to RCW 51.12.183~~)) is eligible for inclusion in a retrospective rating program authorized and established pursuant to chapter 51.18 RCW.

**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.

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

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

**--- END ---**