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**SENATE BILL 5812**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators Liias, Cleveland, Sheldon, Hasegawa, Palumbo, and Saldaña

AN ACT Relating to wheelchair-accessible for hire vehicles; amending RCW 46.72.010; adding a new section to chapter 81.72 RCW; and adding a new chapter to Title 46 RCW.

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

NEW SECTION. **Sec.**  The legislature finds and declares that privately operated for hire transportation service is a vital part of the transportation system within the state. Consequently, the safety, reliability, and stability of privately operated for hire transportation services are matters of statewide importance. The regulation of privately operated for hire transportation services is thus an essential governmental function. The legislature further finds and declares that privately operated wheelchair-accessible for hire vehicles are a vital part of the transportation system within the state. Therefore, it is the intent of the legislature to permit the state, as well as political subdivisions of the state, to regulate wheelchair-accessible for hire vehicle transportation services without liability under federal antitrust laws.

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

(1) "Transportation network company" means a corporation, partnership, sole proprietorship, or other entity that is licensed and operating in Washington state and uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides. A transportation network company is not deemed to control, direct, or manage the transportation network company vehicles or transportation network company drivers that connect to its digital network, except when agreed to by written contract. "Transportation network company" does not include a for hire transportation service provided under chapter 46.72 RCW or taxicab transportation service provided under chapter 81.72 RCW.

(2) "Wheelchair-accessible for hire vehicle" means a taxicab, for hire vehicle, or transportation network company endorsed vehicle that is designed or modified to transport passengers in wheelchairs or other mobility devices and conform to the requirements of the federal Americans with disabilities act. Services provided by a wheelchair-accessible for hire vehicle do not include for hire transportation services provided under chapter 46.72 RCW or taxicab transportation services provided under chapter 81.72 RCW.

(3) "Wheelchair-accessible for hire vehicle operator" means an individual who owns or drives, or both, a vehicle designed or modified to transport passengers in wheelchairs or other mobility devices and conforms to the requirements of the federal Americans with disabilities act.

NEW SECTION. **Sec.**  Subject to section 4 of this act, a wheelchair-accessible for hire vehicle operator may not operate a wheelchair-accessible for hire vehicle upon any highway of this state without first obtaining a permit from the director. The permit application must be made on a form provided by the director and include the following:

(1) The name and address of the owner or owners and, if the applicant is a corporation, the names and addresses of its principal officers;

(2) The city, town, or locality in which any vehicle will be operated;

(3) The name and motor number of any vehicle to be operated;

(4) The endorsement of a city official authorizing an operator under a law or ordinance requiring a permit;

(5) A safety inspection form completed by an approved inspector pursuant to section 13 of this act; and

(6) Such other information as the director may require.

NEW SECTION. **Sec.**  Before a permit is issued under section 2 of this act, the wheelchair-accessible for hire vehicle operator must be required to deposit and thereafter keep on file with the director a surety bond running to the state of Washington covering each and every wheelchair-accessible for hire vehicle as may be owned or leased by the operator and used in the conduct of his or her business. The bond must be in the sum of one hundred thousand dollars for any recovery for death or personal injury by one person, three hundred thousand dollars for all persons killed or receiving personal injury by reason of one act of negligence, and twenty-five thousand dollars for damage to property of any person other than the insured, with a good and sufficient surety company licensed to do business in this state as surety and to be approved by the director, conditioned for the faithful compliance by the principal of the bond with this chapter, and to pay all damages that may be sustained by any person injured by reason of any careless negligence or unlawful act on the part of the principal or his or her agents or employees in the conduct of said business, or in the operation of any wheelchair-accessible for hire vehicle used in transporting passengers for compensation on any public highway of this state.

NEW SECTION. **Sec.**  (1) The director must approve and file all bonds and policies of insurance. The director must, upon the receipt of fees and after approving the bond or policy, furnish the owner with an appropriate certificate that must be carried in a conspicuous place in the vehicle at all times during the for hire operation. A wheelchair-accessible for hire vehicle operator must secure a certificate for each wheelchair-accessible for hire vehicle in operation and pay a fee for each registered vehicle. The permit or certificate expires June 30th of each year, and may be annually renewed upon payment of a fee.

(2) The legislature recognizes that the cost of operating a wheelchair-accessible for hire vehicle is significantly higher than the cost of operating a for hire vehicle that is not wheelchair accessible. The legislature further recognizes that the public good of wheelchair-accessible services outweighs the need for the cost recovery of fees. Therefore, the fee to operate a wheelchair-accessible for hire vehicle is no more than one-half the fee for a for hire vehicle required in RCW 46.72.030.

NEW SECTION. **Sec.**  Any city, town, county, or other political subdivision of this state, or any state agency, may regulate the operation of wheelchair-accessible for hire vehicles on public lands, waters, and other properties under its jurisdiction, and on streets, roads, or highways within its boundaries by adopting regulations or ordinances of its governing body as long as the regulations are not less stringent than the provisions of this chapter.

NEW SECTION. **Sec.**  (1) The director must deny any wheelchair-accessible for hire vehicle permit application if it is determined that the applicant or, if the applicant is a corporation, any of its officers or registered agent:

(a) Has made a misstatement or omission of material fact in the application;

(b) Fails to meet any of the applicant or vehicle requirements of a taxicab licensee or for hire vehicle permittee; or

(c) Has had, within five years of the date of application, a criminal conviction or bail forfeiture for crimes pertaining to alcohol or controlled substances when the crime involved the use of a personal vehicle, commercial vehicle, taxicab, for hire vehicle, or transportation network company endorsed vehicle.

(2) The director may deny any wheelchair-accessible for hire vehicle permit application if the director determines that the applicant:

(a) Has had, within five years of the date of application, a criminal conviction or bail forfeiture involving crimes reasonably related to the applicant's ability to operate a personal vehicle, commercial vehicle, taxicab, for hire vehicle, or transportation network company endorsed vehicle including, but not limited to, prostitution, gambling, fraud, larceny, extortion, or income tax evasion;

(b) Has been found, either through a criminal conviction, bail forfeiture, judgment in a civil suit, or decision in an administrative proceeding, or it has been proven by a preponderance of the evidence regardless of whether the same act was charged as a civil infraction or a crime, to have exhibited past conduct in driving or operating a personal vehicle, commercial vehicle, taxicab, for hire vehicle, or transportation network company endorsed vehicle, or operating a taxicab or for hire vehicle business, that would lead the director to reasonably conclude that the applicant will not comply with the provisions of this chapter related to vehicle requirements and the safe operation of the vehicle; or

(c) Has engaged in the business of operating any personal vehicle, commercial vehicle, taxicab, for hire vehicle, or transportation network company endorsed vehicle, for which a license or permit is required, while such license or permit was suspended or revoked.

NEW SECTION. **Sec.**  (1) The permit for a wheelchair-accessible for hire vehicle must be immediately suspended if:

(a) At any time the surety bond required in section 4 of this act expires, lapses, or is canceled or revoked;

(b) A vehicle inspector places the vehicle out of service when a violation of a vehicle standard is found to be an immediate safety hazard and when immediate suspension is necessary to prevent a clear, substantial, and imminent hazard to life, safety, or property;

(c) The vehicle owner fails to comply with a written notice and order within the prescribed time; or

(d) The director obtains information after the permit is issued that the applicant or, if the applicant is a corporation, any of its officers or registered agent, failed to meet the applicant qualifications in this chapter or there is proof that the vehicle failed to meet the vehicle qualifications established by the director by rule at the time the permit was issued.

(2) The director may suspend or revoke the permit for a wheelchair-accessible for hire vehicle if the director determines that the permittee has:

(a) Received a criminal conviction or a bail forfeiture for a crime that would be grounds for denial in section 7 of this act;

(b) A record that would lead the director to reasonably conclude that the permittee would not comply with the provisions of this chapter related to vehicle standards or operating requirements;

(c) Allowed the operation of a wheelchair-accessible for hire vehicle that does not meet the safety standards and the vehicle standards as set forth in this chapter;

(d) Submitted a safety inspection form that was not completed by a state government-approved or licensed mechanic; or

(e) Failed to provide priority service to private pay passengers who self-identified as having a disability recognized under the federal Americans with disabilities act, including persons who use wheelchairs or other mobility devices.

NEW SECTION. **Sec.**  A wheelchair-accessible for hire vehicle operator must:

(1) Be referred for fingerprinting, and all applications must be referred for a state and federal background investigation under RCW 36.01.300 to regulate the issuance of permits to persons engaged in wheelchair-accessible for hire vehicle occupations and activities; or

(2) Have a copy of a criminal background check provided directly from a third party approved by the director. The director must annually issue the list of third parties that are approved to conduct criminal background checks. An approved third party must, at a minimum:

(a) Include local, state, and national databases;

(b) Access at least five years of database history; and

(c) Demonstrate competency in providing accurate information.

NEW SECTION. **Sec.**  The director may not issue a wheelchair-accessible for hire vehicle operator permit to an applicant unless the applicant:

(1) Is at least twenty-one years of age;

(2) Possesses a valid Washington state driver's license;

(3) Submits a certificate of fitness;

(4) Has completed the training program required under section 12 of this act; and

(5) Presents documentation, as required by the United States department of homeland security, that the applicant is authorized to work in the United States.

NEW SECTION. **Sec.**  (1) An applicant for a wheelchair-accessible for hire vehicle permit must certify on a form prescribed by the director that the applicant is physically and mentally fit to be a wheelchair-accessible for hire vehicle operator.

(2) The director may, at any time, require any wheelchair-accessible for hire vehicle permittee or applicant to be medically examined if it appears that the permittee or applicant has become or is physically or mentally incapacitated to such a degree as to render the permittee or applicant unfit to remain or become a wheelchair-accessible for hire vehicle operator. The medical examination must be performed by a physician licensed to practice in the state of Washington. The director must prescribe the scope of the examination and provide a certificate form for the physician to complete.

NEW SECTION. **Sec.**  A wheelchair-accessible for hire vehicle permit applicant must complete:

(1) A training program providing information about defensive driving, the use of emergency procedures and equipment for the driver's personal safety, risk factors for crimes against for hire vehicle operators, the enhancement of driver and passenger relations, and professional conduct and communication skills;

(2) The national safety council defensive driving course; and

(3) A training program for the special needs of people with disabilities recognized under the federal Americans with disabilities act, or a person who has a mobility disability and uses a wheelchair or other assistive device or requires other assistance including, but not limited to:

(a) Wheelchair types and features, including scooters;

(b) Loading and tie-down procedures;

(c) Mobility equipment, including walkers, canes, crutches, or braces;

(d) Handling service animals;

(e) Hands-on assistance, including body mechanics, transfers, and guiding persons with a vision impairment;

(f) Stress management;

(g) Cardiopulmonary resuscitation;

(h) First aid;

(i) Gender sensitivity; or

(j) Cultural sensitivity.

NEW SECTION. **Sec.**  (1) Before issuance of a wheelchair-accessible for hire vehicle permit, the vehicle must be inspected and approved by an entity approved by the director.

(2) The director must provide a safety inspection form to a wheelchair-accessible for hire vehicle operator as well as a list of state government-approved licensed mechanics or law enforcement entities that may conduct the inspection.

NEW SECTION. **Sec.**  A new section is added to chapter 81.72 RCW to read as follows:

For purposes of this chapter, a wheelchair-accessible for hire vehicle as defined in section 2 of this act is not considered a taxicab licensed under this chapter.

**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, wheelchair-accessible for hire vehicles under chapter 46.--- RCW (the new chapter created in section 16 of this act), limousine carriers licensed under chapter 46.72A RCW, vehicles used by nonprofit transportation providers for elderly persons or ((~~handicapped~~)) persons with disabilities 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.

NEW SECTION. **Sec.**  Sections 1 through 13 of this act constitute a new chapter in Title 46 RCW.

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