HOUSE BILL REPORT
HB 1075

As Reported by House Committee On:
Environment & Energy
Appropriations

Title: An act relating to reducing emissions from vehicles associated with on-demand transportation services.

Brief Description: Reducing emissions from vehicles associated with on-demand transportation services.

Sponsors: Representatives Berry, Fitzgibbon, Leavitt, Ramel, Peterson, Kloba, Chopp, Ormsby, Pollet, Santos and Macri.

Brief History:

Committee Activity:

Environment & Energy: 1/15/21, 1/26/21 [DPS];
Appropriations: 2/8/21, 2/16/21 [DP2S(w/o sub ENVI)].

Brief Summary of Second Substitute Bill

- Requires entities that provide services that connect passengers to vehicle operators for prearranged rides ("commercial transportation service providers") to submit information to the Department of Ecology (Ecology) regarding miles driven and greenhouse gas (GHG) emissions of vehicles used to provide the transportation services.
- Requires commercial transportation service providers to develop plans by 2024, and implement those plans beginning in 2025, to meet GHG emission reduction goals and targets established by Ecology.
- Requires Ecology to report to the Legislature by December 1, 2022, on how to reduce GHG emissions from entities that deliver food and other consumer goods.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Fitzgibbon, Chair; Duerr, Vice Chair; Berry, Fey, Harris-Talley, Ramel, Shewmake and Slatter.

Minority Report: Do not pass. Signed by 5 members: Representatives Dye, Ranking Minority Member; Klicker, Assistant Ranking Minority Member; Abbarno, Boehnke and Goehner.

Staff: Jacob Lipson (786-7196).

Background:

Regulation of Commercial Transportation Service Providers.

Certain private transportation providers, such as operators of airporters, limousines, for-hire vehicles, taxicabs, and charter and excursion buses, are regulated by state law. Commercial Transportation Service Providers are businesses that use a digital network or software application to connect passengers to drivers to provide prearranged rides. These providers are not taxicab companies, charterers or excursion service carriers, auto transportation companies, private nonprofit transportation providers, or limousine carriers. There are statutory requirements regarding liability insurance for personal vehicles being used for commercial transportation services.

Greenhouse Gas Emission Limits, Growth Management Act Planning Goals, and Vehicle Miles Traveled Goals.

In 2008 Washington enacted legislation that sets a series of limits on the emission of greenhouse gases (GHGs) within the state. The Department of Ecology (Ecology) is responsible for monitoring and tracking the state's progress toward the emission limits. In 2020 additional legislation was enacted to update the state limits to the following:
- By 2020, reduce overall emissions of GHGs in the state to 1990 levels, or 90.5 million metric tons.
- By 2030, reduce GHG emissions to 45 percent below 1990 levels, or 50 million metric tons.
- By 2040, reduce overall emissions of GHGs in the state to 70 percent below 1990 levels, or 27 million metric tons.
- By 2050, reduce overall emissions of GHGs in the state to 95 percent below 1990 levels, or 5 million metric tons, and achieve net-zero GHG emissions.

In 2008 the Washington State Department of Transportation was also directed to adopt statewide goals to reduce annual per capita vehicle miles traveled by 18 percent by 2020, by 30 percent by 2035, and by 50 percent by 2050.

Under the state's Growth Management Act (GMA), planning jurisdictions must consider 13 nonprioritized goals set forth in statute for the purpose of guiding comprehensive plans and development regulations. The GMA planning goals address transportation, housing, urban growth, reducing sprawl, and economic development, among other topics.

Clean Air Act.

The state Clean Air Act (CAA) establishes an Air Pollution Control Account (Account) for use by Ecology in carrying out certain responsibilities under the CAA. The Account is funded by certain fees and other receipts authorized under the CAA.

Violations of the CAA requirements are punishable by a variety of criminal and civil penalties. Civil penalties of up to $10,000 per violation are authorized by the CAA. Penalties must be deposited in the Account.

Confidential Business Information and Privacy Protections.

Ecology has an established administrative process that allows for information submitted to Ecology to be designated for Ecology's confidential use, because the information relates to unique production processes, and its release would hurt the competitive position of the entity that submitted the information. Ecology may designate these submitted records as confidential if doing so would not be detrimental to the public interest and is in accord with other policies and purposes governing Ecology's activities.

The Public Records Act (PRA) generally exempts information held by state agencies that would violate personal privacy from public disclosure requirements. Under the PRA, personal privacy is considered to be invaded or violated if disclosure of information would be highly offensive to a reasonable person and is not of legitimate concern to the public.

Summary of Substitute Bill:

"Commercial transportation service providers" are defined as entities that use a digital network or software application to connect passengers to vehicle operators in order to provide a prearranged ride. The same entities, such as regulated taxis and limousines, that are excluded from existing commercial transportation service insurance requirements are also excluded from the definition of "commercial transportation service provider."

Greenhouse Gas Emissions Reporting and Baseline Calculation for Commercial Transportation Service Providers.

The Department of Ecology (Ecology) must establish baseline greenhouse gas (GHG) emissions for commercial transportation service providers on a per-passenger-mile basis, using calendar year 2018 data. The baseline calculation must be established by July 1, 2022, and include miles driven both with and without passengers in the vehicle.

Commercial transportation service providers must provide information to Ecology on a calendar-year basis, which Ecology must use to determine the average GHG emissions per passenger mile, including:

- total miles driven by vehicles;
- the percent share driven by zero-emission vehicles;
- the average grams of carbon dioxide equivalent per mile; and
- the total passenger miles traveled using an average passenger-per-trip estimate.

Ecology may use reasonable methods to adjust and correct data and emissions estimates. Ecology may require commercial transportation service providers to provide data on the number of vehicles operating in Washington by city and county.

<u>Greenhouse Gas Emissions Targets, Goals, and Plans for Commercial Transportation Service Providers</u>.

By July 1, 2023, Ecology must adopt a rule to establish mandatory goals and targets for GHG emissions per passenger mile for commercial transportation service providers.

The goals and targets must also include annual targets and goals for increasing the percentage of miles traveled using zero-emission vehicles, be technically and economically feasible, be informed by data reported to Ecology by companies, and be designed with consideration of state GHG limits and vehicle miles traveled goals. Ecology may delay implementation of goals and targets if unanticipated barriers exist. Ecology may also establish a baseline for commercial transportation service providers that begin operating in Washington after calendar year 2018 and may establish alternate timelines for the goals and targets for such companies.

Beginning January 1, 2024, commercial transportation service providers must submit a GHG emission reduction plan to Ecology, which must be implemented by January 1, 2025. The plan must contain proposals for meeting the goals and targets established by Ecology and must consider incentives to encourage specified outcomes that are not explicitly the subject of Ecology-adopted goals and targets. Plans must also outline actions that commercial transportation service providers will take to ensure that the plan will not result in negative financial outcomes for drivers. Ecology may allow plans to earn credit towards goals and targets through the financial support of transportation electrification infrastructure used by commercial transportation service providers. Procedures are specified for the plan submission process and the process for amending approved plans. Plans must be updated every two years, beginning January 1, 2026.

<u>Program Administration, Confidential Business Information Management, and Compliance Enforcement</u>.

Ecology may adopt rules. Ecology must adopt rules relating to the submission of calendar-year information to Ecology by commercial transportation service providers. In adopting rules, Ecology must ensure, if practicable, minimal negative impact on low-income and moderate-income drivers, that the commercial transportation service provider components of rules complement and support the Growth Management Act planning goals, and that the program supports clean mobility for low-income and moderate-income persons.

Commercial transportation service providers that submit information or records to Ecology may request that the information or records be made available only for confidential use by Ecology or other city, county, or state agencies. Data sharing between Ecology and other city, county, or state agencies must occur under a data-sharing agreement approved by Ecology that affords the data the same level of protections as would be offered if the data remained in Ecology's possession. Ecology must grant a request to keep submitted information confidential if it is made in accord with the policies and procedures established under Ecology's existing administrative process and standards for evaluating confidential information submitted to Ecology. Ecology is also prohibited from making public information that would constitute an invasion of privacy, including information that would allow the identification of individuals using food or commercial transportation service providers.

Ecology may assess annual fees to cover Ecology's direct and indirect program costs. Fees must be deposited in the Air Pollution Control Account.

Violations of GHG emission reporting, plan, and other program requirements are subject to criminal and civil penalties under the state Clean Air Act.

<u>Reporting Requirements</u>.

Ecology must submit a brief report to the Legislature every two years, beginning in September 2027, that addresses GHG emission reductions achieved under plans and the efficacy and sufficiency of financial incentives created by the Legislature to help replace food and passenger delivery vehicles with zero-emission vehicles. Ecology must also submit a report to the Legislature by December 1, 2022, addressing how to reduce GHG emissions from entities that deliver food and other goods.

Ecology must contract for two independent analyses of the effects on drivers of the first 12 months and first 5 years of implementation of GHG emission reduction plans by commercial transportation service providers. The first independent analysis must be completed by November 1, 2026, and the second independent analysis must be completed by November 1, 2030. The independent analyses are within the scope of activities for which Ecology may charge fees to regulated commercial transportation service providers. Ecology may share confidential information or records submitted to Ecology with an entity carrying out the independent analysis, subject to a data-sharing agreement.

Substitute Bill Compared to Original Bill:

The substitute bill requires the Department of Ecology (Ecology) to contract for two independent analyses of the effects on drivers of the first 12 months and first 5 years of implementation of greenhouse gas emission reduction plans by commercial transportation service providers. The first independent analysis must be completed by November 1, 2026, and the second independent analysis must be completed by November 1, 2030. The independent analyses are within the scope of activities for which Ecology may charge fees to regulated commercial transportation service providers. Ecology may share confidential information or records submitted to Ecology with an entity carrying out the independent analysis, subject to a data-sharing agreement.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) California has successfully established a program to limit greenhouse gas emissions from on-demand transportation services. On-demand vehicles are driven more than conventionally owned vehicles, so transitioning to lower-emission vehicles offers the potential for significant emission reductions. The greenhouse gas emission reduction planning framework in the bill mirrors the commitment of leading companies to fully use electric vehicles for all rideshare rides by 2030. Companies have committed to helping drivers invest in electric vehicles. Electric vehicles cost less than half as much to operate as compared to gas cars.

(Opposed) None.

(Other) This bill is the product of negotiations that focused the bill solely on on-demand passenger rideshare services. The study of greenhouse gas emissions from delivery services for food and goods is potentially worrisome, but it is only a study and not new regulatory authority.

Persons Testifying: (In support) Representative Berry, prime sponsor; Leah Missik, Climate Solutions; and Caleb Weaver, Uber.

(Other) Mike Ennis, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Environment & Energy. Signed by 19 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chopp, Cody, Dolan, Fitzgibbon, Frame, Hansen, Johnson, J., Lekanoff, Pollet, Ryu, Senn, Springer, Stonier, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 14 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Caldier, Chandler, Dye, Harris, Hoff, Jacobsen, Rude, Schmick and Steele.

Staff: Dan Jones (786-7118).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Environment & Energy:

The second substitute bill provides that entities that use only zero-emission vehicles are not considered commercial transportation services providers, and are not required to submit greenhouse gas emissions data, develop and implement greenhouse gas emission reduction plans, or pay associated fees. The bill is null and void if not specifically funded in the omnibus appropriations act.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) Increasing the number of lower-emission vehicles will require partnerships between commercial transportation services providers and the government. The bill would reduce greenhouse gas emissions and air pollution from on-demand transportation services, and it would encourage a transition to lower-emission vehicles. The fee created in the bill would cover the Department of Ecology's costs beginning in 2024.

(Opposed) None.

(Other) The bill should include an exemption for providers that exclusively use zero-emission vehicles.

Persons Testifying: (In support) Steve Gano, Uber; and Kathy Taylor, Washington State Department of Ecology.

(Other) Jeff Gombosky, Tesla.

Persons Signed In To Testify But Not Testifying: None.