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HOUSE BILL 2017

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State of Washington                      54th Legislature                      1995 Regular Session  
By Representatives Reams, Radcliff, D. Schmidt, Van Luven, Benton,  
Sherstad and Carrell

Read first time 02/22/95. Referred to Committee on Transportation.

1            AN ACT Relating to the preferential use of highways; and amending  
2 RCW 46.61.165 and 34.05.010.

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

4            **Sec. 1.** RCW 46.61.165 and 1991 sp.s. c 15 s 67 are each amended to  
5 read as follows:

6            The state department of transportation and the local authorities  
7 are authorized to reserve all or any portion of any highway under their  
8 respective jurisdictions, including any designated lane or ramp, for  
9 the exclusive or preferential use of public transportation vehicles or  
10 private motor vehicles carrying no fewer than a specified number of  
11 passengers when such limitation will increase the efficient utilization  
12 of the highway or will aid in the conservation of energy resources.  
13 (~~There is hereby appropriated from the transportation fund—state to~~  
14 ~~the department of transportation, program C for the period ending June~~  
15 ~~30, 1993, an additional \$15 million for the sole purpose of expediting~~  
16 ~~completion of the HOV core lane system.)) Regulations authorizing such  
17 exclusive or preferential use of a highway facility may be declared to  
18 be effective (~~at all times or at specified times of day or on~~  
19 ~~specified days. The department shall evaluate the efficacy of the~~~~

1 ~~vehicle occupancy requirements and shall report to the legislative~~  
2 ~~transportation committee by January 1, 1992))~~ only during peak traffic  
3 hours, and the times of such use must be prominently posted along the  
4 reserved portions of a highway facility.

5       **Sec. 2.** RCW 34.05.010 and 1992 c 44 s 10 are each amended to read  
6 as follows:

7       The definitions set forth in this section shall apply throughout  
8 this chapter, unless the context clearly requires otherwise.

9       (1) "Adjudicative proceeding" means a proceeding before an agency  
10 in which an opportunity for hearing before that agency is required by  
11 statute or constitutional right before or after the entry of an order  
12 by the agency. Adjudicative proceedings also include all cases of  
13 licensing and rate making in which an application for a license or rate  
14 change is denied except as limited by RCW 66.08.150, or a license is  
15 revoked, suspended, or modified, or in which the granting of an  
16 application is contested by a person having standing to contest under  
17 the law.

18       (2) "Agency" means any state board, commission, department,  
19 institution of higher education, or officer, authorized by law to make  
20 rules or to conduct adjudicative proceedings, except those in the  
21 legislative or judicial branches, the governor, or the attorney general  
22 except to the extent otherwise required by law and any local  
23 governmental entity that may request the appointment of an  
24 administrative law judge under chapter 42.41 RCW.

25       (3) "Agency action" means licensing, the implementation or  
26 enforcement of a statute, the adoption or application of an agency rule  
27 or order, the imposition of sanctions, or the granting or withholding  
28 of benefits.

29       Agency action does not include an agency decision regarding (a)  
30 contracting or procurement of goods, services, public works, and the  
31 purchase, lease, or acquisition by any other means, including eminent  
32 domain, of real estate, as well as all activities necessarily related  
33 to those functions, or (b) determinations as to the sufficiency of a  
34 showing of interest filed in support of a representation petition, or  
35 mediation or conciliation of labor disputes or arbitration of labor  
36 disputes under a collective bargaining law or similar statute, or (c)  
37 any sale, lease, contract, or other proprietary decision in the  
38 management of public lands or real property interests, or (d) the

1 granting of a license, franchise, or permission for the use of  
2 trademarks, symbols, and similar property owned or controlled by the  
3 agency.

4 (4) "Agency head" means the individual or body of individuals in  
5 whom the ultimate legal authority of the agency is vested by any  
6 provision of law. If the agency head is a body of individuals, a  
7 majority of those individuals constitutes the agency head.

8 (5) "Entry" of an order means the signing of the order by all  
9 persons who are to sign the order, as an official act indicating that  
10 the order is to be effective.

11 (6) "Filing" of a document that is required to be filed with an  
12 agency means delivery of the document to a place designated by the  
13 agency by rule for receipt of official documents, or in the absence of  
14 such designation, at the office of the agency head.

15 (7) "Institutions of higher education" are the University of  
16 Washington, Washington State University, Central Washington University,  
17 Eastern Washington University, Western Washington University, The  
18 Evergreen State College, the various community colleges, and the  
19 governing boards of each of the above, and the various colleges,  
20 divisions, departments, or offices authorized by the governing board of  
21 the institution involved to act for the institution, all of which are  
22 sometimes referred to in this chapter as "institutions."

23 (8) "Interpretive statement" means a written expression of the  
24 opinion of an agency, entitled an interpretive statement by the agency  
25 head or its designee, as to the meaning of a statute or other provision  
26 of law, of a court decision, or of an agency order.

27 (9)(a) "License" means a franchise, permit, certification,  
28 approval, registration, charter, or similar form of authorization  
29 required by law, but does not include (i) a license required solely for  
30 revenue purposes, or (ii) a certification of an exclusive bargaining  
31 representative, or similar status, under a collective bargaining law or  
32 similar statute, or (iii) a license, franchise, or permission for use  
33 of trademarks, symbols, and similar property owned or controlled by the  
34 agency.

35 (b) "Licensing" includes the agency process respecting the  
36 issuance, denial, revocation, suspension, or modification of a license.

37 (10)(a) "Order," without further qualification, means a written  
38 statement of particular applicability that finally determines the legal

1 rights, duties, privileges, immunities, or other legal interests of a  
2 specific person or persons.

3 (b) "Order of adoption" means the official written statement by  
4 which an agency adopts, amends, or repeals a rule.

5 (11) "Party to agency proceedings," or "party" in a context so  
6 indicating, means:

7 (a) A person to whom the agency action is specifically directed; or

8 (b) A person named as a party to the agency proceeding or allowed  
9 to intervene or participate as a party in the agency proceeding.

10 (12) "Party to judicial review or civil enforcement proceedings,"  
11 or "party" in a context so indicating, means:

12 (a) A person who files a petition for a judicial review or civil  
13 enforcement proceeding; or

14 (b) A person named as a party in a judicial review or civil  
15 enforcement proceeding, or allowed to participate as a party in a  
16 judicial review or civil enforcement proceeding.

17 (13) "Person" means any individual, partnership, corporation,  
18 association, governmental subdivision or unit thereof, or public or  
19 private organization or entity of any character, and includes another  
20 agency.

21 (14) "Policy statement" means a written description of the current  
22 approach of an agency, entitled a policy statement by the agency head  
23 or its designee, to implementation of a statute or other provision of  
24 law, of a court decision, or of an agency order, including where  
25 appropriate the agency's current practice, procedure, or method of  
26 action based upon that approach.

27 (15) "Rule" means any agency order, directive, or regulation of  
28 general applicability (a) the violation of which subjects a person to  
29 a penalty or administrative sanction; (b) which establishes, alters, or  
30 revokes any procedure, practice, or requirement relating to agency  
31 hearings; (c) which establishes, alters, or revokes any qualification  
32 or requirement relating to the enjoyment of benefits or privileges  
33 conferred by law; (d) which establishes, alters, or revokes any  
34 qualifications or standards for the issuance, suspension, or revocation  
35 of licenses to pursue any commercial activity, trade, or profession; or  
36 (e) which establishes, alters, or revokes any mandatory standards for  
37 any product or material which must be met before distribution or sale.  
38 The term includes the amendment or repeal of a prior rule, but does not  
39 include (i) statements concerning only the internal management of an

1 agency and not affecting private rights or procedures available to the  
2 public, (ii) declaratory rulings issued pursuant to RCW 34.05.240,  
3 (iii) traffic restrictions for motor vehicles, bicyclists, and  
4 pedestrians established by the secretary of transportation or his  
5 designee where notice of such restrictions is given by official traffic  
6 control devices, except the reservation of highways for preferential  
7 use under RCW 46.61.165, or (iv) rules of institutions of higher  
8 education involving standards of admission, academic advancement,  
9 academic credit, graduation and the granting of degrees, employment  
10 relationships, or fiscal processes.

11 (16) "Rules review committee" or "committee" means the joint  
12 administrative rules review committee created pursuant to RCW 34.05.610  
13 for the purpose of selectively reviewing existing and proposed rules of  
14 state agencies.

15 (17) "Rule making" means the process for formulation and adoption  
16 of a rule.

17 (18) "Service," except as otherwise provided in this chapter, means  
18 posting in the United States mail, properly addressed, postage prepaid,  
19 or personal service. Service by mail is complete upon deposit in the  
20 United States mail. Agencies may, by rule, authorize service by  
21 electronic telefacsimile transmission, where copies are mailed  
22 simultaneously, or by commercial parcel delivery company.

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