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HOUSE BILL 1625

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State of Washington

61st Legislature

2009 Regular Session

By Representatives Green, Conway, Appleton, Seaquist, Pettigrew, Chase, Hasegawa, Wood, Moeller, Hunt, Kessler, and Rolfes

1 AN ACT Relating to for hire vehicles and for hire vehicle  
2 operators; amending RCW 82.16.010, 82.16.040, and 82.16.020; adding new  
3 sections to chapter 51.08 RCW; adding new sections to chapter 51.12  
4 RCW; and adding a new section to chapter 51.16 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.08 RCW  
7 to read as follows:

8 The legislature finds that taxicab, limousine, and other for hire  
9 vehicle operators are at significant risk of injury due to work-related  
10 accidents, or work-related crimes such as robbery that may not be  
11 covered by standard vehicle insurance policies. Since almost all  
12 taxicab, limousine, and other for hire vehicle business operations are  
13 independent small business franchises, their owners or operators may  
14 opt out of industrial insurance coverage without full consideration for  
15 the risk of financial exposure due to such action. As a result, health  
16 care may be provided to them at public expense or not at all, and  
17 erroneous claims may be made by health care providers for insurance  
18 coverage, against the state department of labor and industries, private  
19 businesses, or the taxicab associations in which certain municipalities

1 require participation. For hire vehicle operators do not enjoy the  
2 benefit of the broad public policy embodied in this title that mandates  
3 industrial insurance protection for workers. The legislature therefore  
4 declares that all taxicab, limousine, and other for hire vehicle  
5 businesses, defined in this act as "urban transportation business"  
6 operations, and all for hire vehicle operators are subject to mandatory  
7 industrial insurance coverage under this title.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 51.08 RCW  
9 to read as follows:

10 (1) As an exception to the definition of "worker" under RCW  
11 51.08.180, services performed by an individual for remuneration do not  
12 constitute employment subject to this title if it is shown that the  
13 person operating a for hire vehicle or an urban transportation  
14 business: (a) Has an ownership or leasehold interest in a vehicle that  
15 is operated as a "for hire vehicle" under chapters 46.72 and 46.72A  
16 RCW, or under regulatory authority granted pursuant to chapter 81.72  
17 RCW; and is operating such vehicle as a "for hire operator" as defined  
18 in RCW 46.72.010; and (b) meets all the requirements in RCW 51.08.195  
19 (1) through (6) to qualify for the exception to the definition of  
20 "worker" under RCW 51.08.195.

21 (2) For the purposes of this section, "for hire vehicle" has the  
22 same meaning as provided in RCW 46.72.010 and "urban transportation  
23 business" has the same meaning as provided in RCW 82.16.010.

24 **Sec. 3.** RCW 82.16.010 and 2007 c 6 s 1023 are each amended to read  
25 as follows:

26 For the purposes of this chapter, unless otherwise required by the  
27 context:

28 (1) "Railroad business" means the business of operating any  
29 railroad, by whatever power operated, for public use in the conveyance  
30 of persons or property for hire. It shall not, however, include any  
31 business herein defined as an urban transportation business.

32 (2) "Express business" means the business of carrying property for  
33 public hire on the line of any common carrier operated in this state,  
34 when such common carrier is not owned or leased by the person engaging  
35 in such business.

1 (3) "Railroad car business" means the business of operating stock  
2 cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank  
3 cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any  
4 other kinds of cars used for transportation of property or persons upon  
5 the line of any railroad operated in this state when such railroad is  
6 not owned or leased by the person engaging in such business.

7 (4) "Water distribution business" means the business of operating  
8 a plant or system for the distribution of water for hire or sale.

9 (5) "Light and power business" means the business of operating a  
10 plant or system for the generation, production or distribution of  
11 electrical energy for hire or sale and/or for the wheeling of  
12 electricity for others.

13 (6) "Telegraph business" means the business of affording  
14 telegraphic communication for hire.

15 (7) "Gas distribution business" means the business of operating a  
16 plant or system for the production or distribution for hire or sale of  
17 gas, whether manufactured or natural.

18 (8) "Motor transportation business" means the business (except  
19 urban transportation business) of operating any motor propelled vehicle  
20 by which persons or property of others are conveyed for hire, and  
21 includes, but is not limited to, the operation of any motor propelled  
22 vehicle as an auto transportation company (except urban transportation  
23 business), common carrier or contract carrier as defined by RCW  
24 81.68.010 and 81.80.010: PROVIDED, That "motor transportation  
25 business" shall not mean or include the transportation of logs or other  
26 forest products exclusively upon private roads or private highways.

27 (9) "Urban transportation business" means the business of  
28 operating:

29 (a) Any vehicle for public use in the conveyance of persons or  
30 property for hire, insofar as (~~(a)~~) (i) operating entirely within the  
31 corporate limits of any city or town, or within five miles of the  
32 corporate limits thereof, or (~~(b)~~) (ii) operating entirely within and  
33 between cities and towns whose corporate limits are not more than five  
34 miles apart or within five miles of the corporate limits of either  
35 thereof. Included herein, but without limiting the scope hereof, is  
36 the business of operating passenger vehicles of every type and also the  
37 business of operating cartage, pickup, or delivery services, including  
38 in such services the collection and distribution of property arriving

1 from or destined to a point within or without the state, whether or not  
2 such collection or distribution be made by the person performing a  
3 local or interstate line-haul of such property; or

4 (b) Any for hire vehicle as defined in RCW 46.72.010, limousine as  
5 defined in RCW 46.72A.010, or a taxicab governed by the laws under  
6 chapter 46.72 or 81.72 RCW, for the purpose of transporting persons or  
7 goods for compensation. For the purpose of this subsection (9)(b) this  
8 term does not include the leasing of equipment, or the leasing of  
9 vehicles licensed under chapters 81.72, 46.72, and 46.72A RCW, or the  
10 providing of any other services to urban transportation businesses.

11 (10)(a) "Public service business" means any of the businesses  
12 defined in subsections (1), (2), (3), (4), (5), (6), (7), (8), and (9)  
13 of this section or any business subject to control by the state, or  
14 having the powers of eminent domain and the duties incident thereto, or  
15 any business hereafter declared by the legislature to be of a public  
16 service nature, except telephone business and low-level radioactive  
17 waste site operating companies as redefined in RCW 81.04.010. It  
18 includes, among others, without limiting the scope hereof: Airplane  
19 transportation, boom, dock, ferry, pipe line, toll bridge, toll logging  
20 road, water transportation and wharf businesses.

21 (b) The definitions in this subsection (10)(b) apply throughout  
22 this subsection (10).

23 (i) "Competitive telephone service" has the same meaning as in RCW  
24 82.04.065.

25 (ii) "Network telephone service" means the providing by any person  
26 of access to a telephone network, telephone network switching service,  
27 toll service, or coin telephone services, or the providing of  
28 telephonic, video, data, or similar communication or transmission for  
29 hire, via a telephone network, toll line or channel, cable, microwave,  
30 or similar communication or transmission system. "Network telephone  
31 service" includes the provision of transmission to and from the site of  
32 an internet provider via a telephone network, toll line or channel,  
33 cable, microwave, or similar communication or transmission system.  
34 "Network telephone service" does not include the providing of  
35 competitive telephone service, the providing of cable television  
36 service, the providing of broadcast services by radio or television  
37 stations, nor the provision of internet service as defined in RCW

1 82.04.297, including the reception of dial-in connection, provided at  
2 the site of the internet service provider.

3 (iii) "Telephone business" means the business of providing network  
4 telephone service. It includes cooperative or farmer line telephone  
5 companies or associations operating an exchange.

6 (iv) "Telephone service" means competitive telephone service or  
7 network telephone service, or both, as defined in (b)(i) and (ii) of  
8 this subsection.

9 (11) "Tugboat business" means the business of operating tugboats,  
10 towboats, wharf boats or similar vessels in the towing or pushing of  
11 vessels, barges or rafts for hire.

12 (12) "Gross income" means the value proceeding or accruing from the  
13 performance of the particular public service or transportation business  
14 involved, including operations incidental thereto, but without any  
15 deduction on account of the cost of the commodity furnished or sold,  
16 the cost of materials used, labor costs, interest, discount, delivery  
17 costs, taxes, or any other expense whatsoever paid or accrued and  
18 without any deduction on account of losses.

19 (13) The meaning attributed, in chapter 82.04 RCW, to the term "tax  
20 year," "person," "value proceeding or accruing," "business," "engaging  
21 in business," "in this state," "within this state," "cash discount" and  
22 "successor" shall apply equally in the provisions of this chapter.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 51.08 RCW  
24 to read as follows:

25 Operating under contract of service or in accordance with  
26 applicable laws does not constitute evidence of control or direction  
27 for the purposes of determining status as a worker or determining  
28 employment or independent contractor status, pursuant to the exceptions  
29 set forth in RCW 51.08.181 in regards to urban transportation  
30 businesses as defined in RCW 82.16.010 or for hire vehicles or for hire  
31 operators as defined in RCW 46.72.010.

32 **Sec. 5.** RCW 82.16.040 and 1996 c 111 s 4 are each amended to read  
33 as follows:

34 The provisions of this chapter (~~shall~~) do not apply to persons  
35 engaging in one or more businesses taxable under this chapter whose  
36 total gross income is less than two thousand dollars for a monthly

1 period or portion thereof unless such business is an urban  
2 transportation business. Any person claiming exemption under this  
3 section may be required to file returns even though no tax may be due.  
4 If the total gross income for a taxable monthly period is two thousand  
5 dollars, or more, no exemption or deductions from the gross operating  
6 revenue is allowed by this provision.

7 **Sec. 6.** RCW 82.16.020 and 1996 c 150 s 2 are each amended to read  
8 as follows:

9 (1) There is levied and there shall be collected from every person  
10 a tax for the act or privilege of engaging within this state in any one  
11 or more of the businesses herein mentioned. The tax shall be equal to  
12 the gross income of the business, multiplied by the rate set out after  
13 the business, as follows:

14 (a) Express, sewerage collection, and telegraph businesses: Three  
15 and six-tenths percent;

16 (b) Light and power business: Three and sixty-two one-hundredths  
17 percent;

18 (c) Gas distribution business: Three and six-tenths percent;

19 (d) Urban transportation business: Six-tenths of one percent;

20 (e) Vessels under sixty-five feet in length, except tugboats,  
21 operating upon the waters within the state: Six-tenths of one percent;

22 (f) Motor transportation, railroad, railroad car, and tugboat  
23 businesses, and all public service businesses other than ones mentioned  
24 above: One and eight-tenths of one percent;

25 (g) Water distribution business: Four and seven-tenths percent.

26 (2) An additional tax is imposed equal to the rate specified in RCW  
27 82.02.030 multiplied by the tax payable under subsection (1) of this  
28 section.

29 (3) Twenty percent of the moneys collected under subsection (1) of  
30 this section on water distribution businesses and sixty percent of the  
31 moneys collected under subsection (1) of this section on sewerage  
32 collection businesses (~~shall~~) must be deposited in the public works  
33 assistance account created in RCW 43.155.050.

34 (4) Fifty percent of the moneys collected under subsection (1)(d)  
35 of this section and from urban transportation businesses under  
36 subsection (2) of this section must be remitted to the department of  
37 labor and industries for the purpose of providing mandatory industrial

1 insurance to urban transportation businesses and their licensed for  
2 hire vehicle operators, as provided pursuant to Title 51 RCW. For the  
3 purposes of this subsection (4), "for hire vehicle operator" has the  
4 same meaning as provided in RCW 46.72.010.

5 NEW SECTION. Sec. 7. A new section is added to chapter 51.12 RCW  
6 to read as follows:

7 (1) Any urban transportation business licensed pursuant to or  
8 operating a for hire vehicle under chapter 46.72, 46.72A, or 81.72 RCW,  
9 and who is operating such vehicle as a for hire operator, is within the  
10 mandatory coverage of this title. Such urban transportation business  
11 or for hire vehicle operator license must be granted by the department  
12 of licensing subject to mandatory industrial insurance coverage and  
13 must be suspended or revoked in the event of failure to file report of,  
14 and pay, applicable premiums or taxes, including but not limited to the  
15 public utility tax as levied upon urban transportation businesses  
16 pursuant to RCW 82.16.020.

17 (2) A for hire vehicle operator must be registered or affiliated  
18 with an urban transportation business and must have evidence of such  
19 affiliation whenever operating a for hire vehicle. The department of  
20 labor and industries, the department of revenue, and the department of  
21 licensing must adopt rules to implement this section.

22 (3) For the purposes of this section, "for hire vehicle" and "for  
23 hire operator" have the same meaning as provided in RCW 46.72.010 and  
24 "urban transportation business" has the same meaning as provided in RCW  
25 82.16.010.

26 NEW SECTION. Sec. 8. A new section is added to chapter 51.12 RCW  
27 to read as follows:

28 (1) Any urban transportation business as defined in RCW 82.16.010  
29 with workers subject to the employment provisions of RCW 51.08.180, and  
30 not otherwise eligible for an exemption, and accordingly paying  
31 industrial insurance premiums, must receive as credit against such  
32 premiums in the amount of any public utility tax paid under RCW  
33 82.16.020, with credit to employers and employees proportionate to  
34 their share of such insurance premiums paid.

35 (2) Notwithstanding any other provision of this act, such employer

1 may opt for industrial insurance coverage for its urban transportation  
2 business and for hire vehicle operators pursuant to, and under the  
3 provisions of, this act.

4 (3) The department of labor and industries must adopt rules to  
5 implement this section to ensure that costs and benefits of mandatory  
6 industrial insurance are uniformly applied and received by all urban  
7 transportation businesses, and for hire vehicle operators, without  
8 regard to business employment or financial structure.

9 NEW SECTION. **Sec. 9.** A new section is added to chapter 51.12 RCW  
10 to read as follows:

11 In order to control claims costs, particularly costs related to the  
12 self-monitoring of industrial insurance claims by small, independently  
13 operated urban transportation businesses, the department of labor and  
14 industries may empower a panel with disinterested, independent third  
15 party adjudicators with transportation industry experience and  
16 expertise; authority to review, approve, or reject claims; and  
17 authority to advise the department of labor and industries with respect  
18 to such.

19 NEW SECTION. **Sec. 10.** A new section is added to chapter 51.12 RCW  
20 to read as follows:

21 (1) Any entity regulating or setting consumer rates for urban  
22 transportation businesses, including specifically cities, towns,  
23 counties, and port districts setting the rates charged for taxicab  
24 service under chapter 81.72 RCW, or for hire vehicles or limousines  
25 operating under the authority of chapter 46.72 or 46.72A RCW or a  
26 taxicab under chapter 46.72 RCW, must: (a) Consider the impact of the  
27 public utility tax on urban transportation providers within its  
28 jurisdiction in the calculation and setting of such consumer rates; and  
29 (b) adjust such consumer rates to offset any increased cost to urban  
30 transportation businesses and for hire vehicle operators of mandatory  
31 industrial insurance coverage, within one hundred eighty days of the  
32 effective date of this act.

33 (2) Rate-setting authority under this section is limited to the  
34 setting of consumer rates for the provision of transportation services.

35 (3) Cities, towns, counties, and port districts that set consumer  
36 rates charged for taxicab service pursuant to chapter 81.72 RCW, or for



1 other urban transportation businesses subject to the public utility tax  
2 and subject to mandatory industrial insurance pursuant to this act, are  
3 specifically prohibited from establishing, regulating, or otherwise  
4 setting rates for the leasing of for hire vehicles, including licensed  
5 taxicabs, by urban transportation industry service providers to urban  
6 transportation businesses or their for hire vehicle operators for this  
7 or any other purpose.

8 NEW SECTION. **Sec. 11.** A new section is added to chapter 51.16 RCW  
9 to read as follows:

10 (1) The department must assess premiums, under the provisions of  
11 this section, on urban transportation businesses in accordance with  
12 chapter 51.12 RCW. This premium assessment must be for the purpose of  
13 providing mandatory industrial insurance coverage while operating a for  
14 hire vehicle under chapter 46.72, 46.72A, or 81.72 RCW. The department  
15 may adopt rules under chapter 34.05 RCW to carry out the purposes of  
16 this section, including rules providing for alternative reporting  
17 periods and payment due dates for coverage under this section. The  
18 department rules must ensure that premiums assessed upon urban  
19 transportation businesses are proportionate to, and are assessed with  
20 credit for, taxes paid by urban transportation businesses for mandatory  
21 industrial insurance coverage levied in accordance with RCW  
22 82.16.020(4) such that there must be no net revenue increase or  
23 decrease to state tax revenue deposited to any fund, budget, or account  
24 pursuant to RCW 43.135.035(6) except for the purposes of assessing and  
25 collecting mandatory industrial insurance coverage insurance premiums  
26 under this title including costs of premium collection.

27 (2) The department must compute industrial insurance premium rates  
28 on a per license basis, which premium rate must be assessed at the time  
29 of each issuance or renewal of the for hire vehicle operator license,  
30 in an amount established by department rule for coverage under this  
31 section, with initial payment at the time of for hire operator license  
32 issuance, and further payment reported and paid by the urban  
33 transportation business with which the for hire vehicle license is  
34 affiliated, with the urban transportation business tax under chapter  
35 51.12 RCW. Premium assessments must be determined in accordance with  
36 the requirements of this title, except that assessments must be

1 experience rated with reference to all for hire vehicle operators  
2 subject to mandatory insurance coverage under RCW 82.16.020.

3 (3) Alternate rules for the collection of premiums under this  
4 section may be established by the department of revenue and the  
5 department of licensing. Premiums must be deposited in the industrial  
6 insurance trust funds as provided under rules of the department.

7 NEW SECTION. **Sec. 12.** If any provision of this act or its  
8 application to any person or circumstance is held invalid, the  
9 remainder of the act or the application of the provision to other  
10 persons or circumstances is not affected.

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