

SSB 5836 - H COMM AMD  
By Committee on Transportation

ADOPTED 04/06/2011

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 46.61.165 and 1999 c 206 s 1 are each amended to read  
4 as follows:

5 (1) The state department of transportation and the local  
6 authorities are authorized to reserve all or any portion of any highway  
7 under their respective jurisdictions, including any designated lane or  
8 ramp, for the exclusive or preferential use of one or more of the  
9 following: (a) Public transportation vehicles (~~(or)~~); (b) private  
10 motor vehicles carrying no fewer than a specified number of passengers;  
11 or (c) the following private transportation provider vehicles if the  
12 vehicle has the capacity to carry eight or more passengers, regardless  
13 of the number of passengers in the vehicle, and if such use does not  
14 interfere with the efficiency, reliability, and safety of public  
15 transportation operations: (i) Auto transportation company vehicles  
16 regulated under chapter 81.68 RCW; (ii) passenger charter carrier  
17 vehicles regulated under chapter 81.70 RCW, except marked or unmarked  
18 stretch limousines and stretch sport utility vehicles as defined under  
19 department of licensing rules; (iii) private nonprofit transportation  
20 provider vehicles regulated under chapter 81.66 RCW; and (iv) private  
21 employer transportation service vehicles, when such limitation will  
22 increase the efficient utilization of the highway or will aid in the  
23 conservation of energy resources.

24 (2) Any transit-only lanes that allow other vehicles to access  
25 abutting businesses that are authorized pursuant to subsection (1) of  
26 this section may not be authorized for the use of private  
27 transportation provider vehicles as described under subsection (1) of  
28 this section.

29 (3) The state department of transportation and the local  
30 authorities authorized to reserve all or any portion of any highway

1 under their respective jurisdictions, for exclusive or preferential  
2 use, may prohibit the use of a high occupancy vehicle lane by the  
3 following private transportation provider vehicles: (a) Auto  
4 transportation company vehicles regulated under chapter 81.68 RCW; (b)  
5 passenger charter carrier vehicles regulated under chapter 81.70 RCW,  
6 and marked or unmarked limousines and stretch sport utility vehicles as  
7 defined under department of licensing rules; (c) private nonprofit  
8 transportation provider vehicles regulated under chapter 81.66 RCW; and  
9 (d) private employer transportation service vehicles, when the average  
10 transit speed in the high occupancy vehicle lane fails to meet  
11 department of transportation standards and falls below forty-five miles  
12 per hour at least ninety percent of the time during the peak hours, as  
13 determined by the department of transportation or the local authority,  
14 whichever operates the facility.

15 (4) Regulations authorizing such exclusive or preferential use of  
16 a highway facility may be declared to be effective at all times or at  
17 specified times of day or on specified days. Violation of a  
18 restriction of highway usage prescribed by the appropriate authority  
19 under this section is a traffic infraction.

20 (5) Local authorities are encouraged to establish a process for  
21 private transportation providers, as described under subsections (1)  
22 and (3) of this section, to apply for the use of public transportation  
23 facilities reserved for the exclusive or preferential use of public  
24 transportation vehicles. The application and review processes should  
25 be uniform and should provide for an expeditious response by the local  
26 authority. Whenever practicable, local authorities should enter into  
27 agreements with such private transportation providers to allow for the  
28 reasonable use of these facilities.

29 (6) For the purposes of this section, "private employer  
30 transportation service" means regularly scheduled, fixed-route  
31 transportation service that is similarly marked or identified to  
32 display the business name or logo on the driver and passenger sides of  
33 the vehicle, meets the annual certification requirements of the  
34 department of transportation, and is offered by an employer for the  
35 benefit of its employees.

36 **Sec. 2.** RCW 47.04.290 and 2008 c 257 s 1 are each amended to read  
37 as follows:

1 (1) Any local transit agency that has received state funding for a  
2 park and ride lot shall make reasonable accommodation for use of that  
3 lot by: Auto transportation companies regulated under chapter 81.68  
4 RCW ((and)); passenger charter carriers regulated under chapter 81.70  
5 RCW, except marked or unmarked stretch limousines and stretch sport  
6 utility vehicles as defined under department of licensing rules;  
7 private, nonprofit transportation providers regulated under chapter  
8 81.66 RCW((, that intend to provide or already provide regularly  
9 scheduled service at that lot)); and private employer transportation  
10 service vehicles, provided that such use does not interfere with the  
11 efficiency, reliability, and safety of public transportation  
12 operations. The accommodation must be in the form of an agreement  
13 between the applicable local transit agency and the private ((transit))  
14 transportation provider ((regulated under chapter 81.68 or 81.66 RCW)).  
15 The transit agency may require that the agreement include provisions to  
16 recover actual costs and fair market value for the use of the lot and  
17 its related facilities and to provide adequate insurance and  
18 indemnification of the transit agency, and other reasonable provisions  
19 to ensure that the private ((transit)) transportation provider's use  
20 does not unduly burden the transit agency. The transit agency may  
21 consider benefits to its public transportation system when establishing  
22 an amount to charge for the use of the park and ride lot and its  
23 related facilities. If the agreement includes provisions to recover  
24 actual costs, the private transportation provider is responsible to  
25 remit the full actual costs of park and ride lot use to the appropriate  
26 transit agency. No accommodation is required, and any agreement may be  
27 terminated, if the park and ride lot is at or exceeds ninety percent  
28 capacity between the hours of 6:00 a.m. and 4:00 p.m., Monday through  
29 Friday for two consecutive months. Additionally, any agreement may be  
30 terminated if the private transportation provider violates any policies  
31 guiding the terms of use of the park and ride lot. The transit agency  
32 may reserve the authority to designate which pick-up and drop-off zones  
33 of the park and ride lot may be used by the private transportation  
34 provider.

35 (2) A local transit agency described under subsection (1) of this  
36 section may enter into a cooperative agreement with a taxicab company  
37 regulated under chapter 81.72 RCW in order to accommodate the taxicab

1 company at the agency's park and ride lot, provided the taxicab company  
2 must agree to provide service with reasonable availability, subject to  
3 schedule coordination provisions as agreed to by the parties.

4 (3) For the purposes of this section, "private employer  
5 transportation service" means regularly scheduled, fixed-route  
6 transportation service that is similarly marked or identified to  
7 display the business name or logo on the driver and passenger sides of  
8 the vehicle, meets the annual certification requirements of the  
9 department, and is offered by an employer for the benefit of its  
10 employees.

11 (4) For the purposes of this section, "private transportation  
12 provider" means:

13 (a) A company regulated under chapter 81.68 RCW; chapter 81.70 RCW,  
14 except marked or unmarked stretch limousines and stretch sport utility  
15 vehicles as defined under department of licensing rules; and chapter  
16 81.66 RCW; and

17 (b) An entity providing private employer transportation service.

18 **Sec. 3.** RCW 47.52.025 and 1974 ex.s. c 133 s 1 are each amended to  
19 read as follows:

20 (1) Highway authorities of the state, counties, and incorporated  
21 cities and towns, in addition to the specific powers granted in this  
22 chapter, shall also have, and may exercise, relative to limited access  
23 facilities, any and all additional authority, now or hereafter vested  
24 in them relative to highways or streets within their respective  
25 jurisdictions, and may regulate, restrict, or prohibit the use of such  
26 limited access facilities by various classes of vehicles or traffic.  
27 Such highway authorities may reserve any limited access facility or  
28 portions thereof, including designated lanes or ramps for the exclusive  
29 or preferential use of (a) public transportation vehicles, (b)  
30 privately owned buses, (~~(c)~~) (c) private motor vehicles carrying not  
31 less than a specified number of passengers, or (d) the following  
32 private transportation provider vehicles if the vehicle has the  
33 capacity to carry eight or more passengers, regardless of the number of  
34 passengers in the vehicle, and if such use does not interfere with the  
35 efficiency, reliability, and safety of public transportation  
36 operations: (i) Auto transportation company vehicles regulated under  
37 chapter 81.68 RCW; (ii) passenger charter carrier vehicles regulated

1 under chapter 81.70 RCW, except marked or unmarked stretch limousines  
2 and stretch sport utility vehicles as defined under department of  
3 licensing rules; (iii) private nonprofit transportation provider  
4 vehicles regulated under chapter 81.66 RCW; and (iv) private employer  
5 transportation service vehicles, when such limitation will increase the  
6 efficient utilization of the highway facility or will aid in the  
7 conservation of energy resources. Regulations authorizing such  
8 exclusive or preferential use of a highway facility may be declared to  
9 be effective at all time or at specified times of day or on specified  
10 days.

11 (2) Any transit-only lanes that allow other vehicles to access  
12 abutting businesses that are reserved pursuant to subsection (1) of  
13 this section may not be authorized for the use of private  
14 transportation provider vehicles as described under subsection (1) of  
15 this section.

16 (3) Highway authorities of the state, counties, or incorporated  
17 cities and towns may prohibit the use of limited access facilities by  
18 the following private transportation provider vehicles: (a) Auto  
19 transportation company vehicles regulated under chapter 81.68 RCW; (b)  
20 passenger charter carrier vehicles regulated under chapter 81.70 RCW,  
21 and marked or unmarked limousines and stretch sport utility vehicles as  
22 defined under department of licensing rules; (c) private nonprofit  
23 transportation provider vehicles regulated under chapter 81.66 RCW; and  
24 (d) private employer transportation service vehicles, when the average  
25 transit speed in the high occupancy vehicle travel lane fails to meet  
26 department standards and falls below forty-five miles per hour at least  
27 ninety percent of the time during the peak hours for two consecutive  
28 months.

29 (4)(a) Local authorities are encouraged to establish a process for  
30 private transportation providers, described under subsections (1) and  
31 (3) of this section, to apply for the use of limited access facilities  
32 that are reserved for the exclusive or preferential use of public  
33 transportation vehicles.

34 (b) The process must provide a list of facilities that the local  
35 authority determines to be unavailable for use by the private  
36 transportation provider and must provide the criteria used to reach  
37 that determination.

1 (c) The application and review processes must be uniform and should  
2 provide for an expeditious response by the authority.

3 (5) The department must convene a stakeholder process that includes  
4 interested public and private transportation providers, which must  
5 develop standard permit forms, clear explanations of permit rate  
6 calculations, and standard indemnification provisions that may be used  
7 by all local authorities.

8 (6) For the purposes of this section, "private employer  
9 transportation service" means regularly scheduled, fixed-route  
10 transportation service that is similarly marked or identified to  
11 display the business name or logo on the driver and passenger sides of  
12 the vehicle, meets the annual certification requirements of the  
13 department, and is offered by an employer for the benefit of its  
14 employees.

15 NEW SECTION. Sec. 4. A new section is added to chapter 47.04 RCW  
16 to read as follows:

17 When designing portions of a highway that are intended to be used  
18 as portions reserved for the exclusive or preferential use of public  
19 transportation vehicles, state and local jurisdictions shall consider  
20 whether the design will safely accommodate private transportation  
21 provider vehicles that may be authorized to use the reserved portions  
22 under RCW 46.61.165 and 47.52.025 without interfering with the  
23 efficiency, reliability, and safety of public transportation  
24 operations.

25 NEW SECTION. Sec. 5. If any part of this act is found to be in  
26 conflict with mitigation requirements under the state environmental  
27 policy act (chapter 43.21C RCW) or the national environmental policy  
28 act (42 U.S.C. Secs. 4321 through 4347) or in any other way conflicts  
29 with federal requirements that are a condition or part of the  
30 allocation of federal funds to the state or local facilities, the  
31 conflicting part of this act is inoperative solely to the extent of the  
32 conflict and with respect to the agencies directly affected, and this  
33 finding does not affect the operation of the remainder of this act in  
34 its application to the agencies concerned. Rules adopted under this  
35 act must meet federal requirements that are a necessary condition to  
36 the receipt of federal funds by the state or local authorities."

EFFECT: Removes the entirety of the underlying bill, which required that certain private transportation provider vehicles be allowed to use the left lane of the roadway, high occupancy vehicle (HOV) lanes, and lanes reserved for public transportation, and replaces it with the following:

(1) Allows the Washington state department of transportation (WSDOT) and local authorities to authorize the use of HOV and transit-only lanes, except for business access and transit lanes, by private transportation provider vehicles, and specifically allows for the prohibition of such vehicles in an HOV lane if the speed in the lane falls below 45 miles per hour at least 90% of the time during peak hours.

(2) Encourages local authorities to establish a process for private transportation providers to apply for the use of public transportation facilities.

(3) Modifies the existing statute regarding the use of park and ride lots by private transportation providers in a variety of ways, including broadening the types of providers that can use the lots, clarifying the time frame to be considered when deciding if there is sufficient capacity in the lots, clarifying the guidelines for determining the payments for use of the lots, and allowing termination of the agreement for use of a lot in the event that a private transportation provider violates policies regarding the use of the lot.

(4) Requires WSDOT to convene a stakeholder process to develop standard forms, explanations of rate calculations, and standard indemnification provisions, which may be used by all local authorities.

(5) Adds local authorities to the entities whose federal funding must be considered when determining if any portion of the act must be rendered inoperable.

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