

# HOUSE BILL REPORT

## ESHB 1367

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### As Amended by the Senate

**Title:** An act relating to for hire vehicles and for hire vehicle operators.

**Brief Description:** Concerning for hire vehicles and for hire vehicle operators.

**Sponsors:** House Committee on Labor & Workforce Development (originally sponsored by Representatives Green, Moeller, Rolfes, Hasegawa, Pettigrew, Sells, Ryu, Appleton, Hunt, Seaquist, Miloscia, Ormsby and Roberts).

#### **Brief History:**

##### **Committee Activity:**

Labor & Workforce Development: 1/28/11, 2/9/11, 2/15/11 [DPS].

##### **Floor Activity:**

Passed House: 3/7/11, 96-0.

Senate Amended.

Passed Senate: 4/8/11, 39-8.

#### **Brief Summary of Engrossed Substitute Bill**

- Requires mandatory industrial insurance coverage for certain for hire vehicle operators, and creates penalties for failure to pay premiums.

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### HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Sells, Chair; Reykdal, Vice Chair; Condotta, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Fagan, Green, Kenney, Miloscia, Moeller, Ormsby, Roberts, Taylor and Warnick.

**Staff:** Joan Elgee (786-7106).

#### **Background:**

##### Industrial Insurance.

With limited exceptions, all workers in the state are covered by mandatory industrial insurance. Some independent contractors are exempt from mandatory coverage. The term

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"independent contractor" is not defined in law; rather, this concept is embodied in several exception tests to the definition of "worker." If a worker fulfills the tests, the worker is not covered for purposes of workers' compensation, and no industrial insurance premiums are due. Otherwise, the worker is a covered worker, and premiums are due.

In nearly all types of employments, premiums are based on hours worked.

The retrospective rating program (retro) allows an employer or a group of employers to assume a portion of industrial insurance risk and receive premium refunds or be assessed additional premiums based on claim losses.

#### For Hire Vehicles.

For hire vehicle (includes taxicabs) owners must obtain a vehicle certificate from the Department of Licensing (DOL). Taxicab businesses are also subject to regulation by local jurisdictions. Cities, towns, counties, and port districts may control rates charged for taxicab transportation services and the manner in which rates are calculated and collected. The City of Seattle regulates the rates charged to drivers to lease taxicabs.

Limousine carriers must obtain a license from the DOL. The state has preempted local regulation of limousine carriers except that the Port of Seattle has some regulatory authority. A limousine carrier is a person who, under a single contract, acquires the use of a limousine to travel to a specific destination or for a particular itinerary on a prearranged basis.

#### **Summary of Engrossed Substitute Bill:**

##### Industrial Insurance.

Certain for hire businesses and operators of for hire vehicles are within mandatory industrial insurance coverage. Businesses are those that own and operate, or own and lease: a for hire vehicle (includes taxicabs) licensed by the state, a limousine, or a taxicab licensed by a local jurisdiction. Persons who operate these vehicles for the purpose of carrying persons for compensation and chauffeurs are covered persons.

The Department of Labor and Industries (L&I) must compute premiums by rule. The L&I must consider: (1) the unique economic structures of the taxicab, for hire vehicle, and limousine industries; (2) the difficulty of equitably assessing premiums on classes of businesses that use both employer/employee and independent contractor business models; (3) the economic impact on businesses of a rate and assessment alternative, such as a flat rate and per vehicle or miles driven basis, compared to an hours worked basis; (4) the L&I's costs and efficiency of administration; (5) the cost to businesses and covered workers; and (6) the anticipated effectiveness in implementing mandatory industrial insurance of for hire vehicle operators. The L&I may appoint a panel of individuals with for hire and taxicab transportation industry experience and expertise to advise the L&I. The owner of any vehicle subject to mandatory coverage is eligible for inclusion in a retro.

A for hire vehicle certificate, a limousine business license and vehicle certificate, and a local taxicab license must be suspended or revoked, and may not be renewed, if industrial insurance premiums are not paid. Suspension and revocation for failure to pay premiums must be at the direction and expense of the L&I. The DOL and the L&I may adopt rules and

enter into cooperative agreements to implement this provision. With respect to local taxicab regulation, local jurisdictions may also enter cooperative agreements with the DOL and the L&I.

A for hire vehicle, limousine, and locally regulated taxicab and its operator must have evidence of good standing regarding the industrial insurance premium. Failure to produce evidence upon demand of a law enforcement officer or other government agent is a civil infraction punishable by a fine of not more than \$250 per infraction on both the owner and the operator.

#### Local Regulation.

A local jurisdiction setting rates charged for taxicab services must consider adjusting the rates to offset any increased cost to any taxicab business from mandatory industrial or other insurance coverage. An owner of a taxicab licensed by a local jurisdiction that leases the taxicab to an operator must make a reasonable effort to train the operator in motor vehicle operation and safety requirements, and to monitor operator compliance, which may include the use of operator monitoring cameras.

#### **EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment provides that instead of considering adjusting taxicab service rates to offset any increased cost to any taxicab business from industrial or other insurance coverage, local governments setting rates are required to adjust the rates and to do so to accommodate changes in the cost of industrial insurance or other industry-wide costs.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect January 1, 2012, except for section 3, relating to determination of the basis for the premium and the assessment of the premium, which takes effect 90 days after adjournment of the session in which the bill is passed.

#### **Staff Summary of Public Testimony:**

(In support) This bill will address a situation that has been going on for decades. Even though it will hurt, the bill is supported. Taxis are leased to nonowner-operator small businesses who opt out of industrial insurance. Picking up strangers is not a safe business. Drivers will have industrial insurance rather than rely on public support. The proposed substitute bill takes out the public utility tax and provisions that concerned the L&I. In return, clarification in the taxicab regulatory structure is needed. Premiums will be paid by owners. The bill will level the playing field in the industry. Having an option to pay on a per hour basis rather than per vehicle basis is supported.

(Opposed) Drivers are considered to be covered workers. There are concerns with the definitions being too broad and unintentionally affecting other industries as well as language allowing automatic entry into the retro. However, the substitute bill is being worked on to reach agreement.

**Persons Testifying:** (In support) Chris Van Dyk, Richard Merschberg, and Lema Woldegeorgis, BYG Taxi Cooperative; and Steve Salins, Shuttle Express.

(Opposed) Doric Olson, Department of Labor and Industries.

**Persons Signed In To Testify But Not Testifying:** None.