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HOUSE BILL 2384
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State of Washington   **62nd Legislature**   **2012 Regular Session**

By Representatives Hudgins, Bailey, Kirby, Condotta, Pedersen, Ryu, Fitzgibbon, Moscoso, Stanford, Upthegrove, Billig, Liias, and Ladenburg

Read first time 01/12/12.   Referred to Committee on Business & Financial Services.

1   AN ACT Relating to personal vehicle sharing programs; adding a new
2   chapter to Title 48 RCW; and creating a new section.

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

4   NEW SECTION. **Sec. 1.** For the purposes of this chapter, unless the
5   context otherwise requires:
6   (1) "Owner's insurance policy" means an automobile liability
7   insurance policy, as defined in RCW 48.22.005, that includes:
8   (a) All coverage necessary to comply with the requirements of
9   chapter 46.30 RCW; and
10   (b) Any optional coverage selected by the owner, including:
11   (i) Personal injury protection coverage as defined in RCW
12   48.22.005;
13   (ii) Underinsured coverage as defined in RCW 48.22.030;
14   (iii) Comprehensive property damage coverage for the vehicle; and
15   (iv) Collision property damage coverage for the vehicle.
16   (2) "Personal vehicle sharing" means the use of a private passenger
17   motor vehicle, by persons other than the vehicle's registered owner in
18   connection with a personal vehicle sharing program.

(3) "Personal vehicle sharing program" or "program" means a legal entity qualified to do business in this state engaged in the business of facilitating the sharing of private passenger motor vehicles for noncommercial use by individuals within this state.

(4) "Private passenger motor vehicle" means a four-wheel passenger or station wagon type motor vehicle insured under an automobile liability insurance policy covering a single individual or individuals residing in the same household as the named insured.

(5) "Program insurance policy" means an automobile liability insurance policy that is obtained by the personal vehicle sharing program and that:

(a) Includes all coverage needed to comply with the requirements of chapter 46.30 RCW;

(b) Includes the following optional coverages if selected by the owner in the owner's insurance policy in at least the same amounts as the owner's insurance policy:

(i) Personal injury protection coverage as defined in RCW 48.22.005;

(ii) Underinsured coverage as defined in RCW 48.22.030;

(iii) Comprehensive property damage coverage for the vehicle;

(iv) Collision property damage coverage for the vehicle; and

(c) Does not include any other optional coverage selected by the owner of the vehicle and included in the owner's insurance policy.

NEW SECTION. **Sec. 2.** For each vehicle that the program facilitates the use of, a program must:

(1) Provide a program insurance policy with coverage for the vehicle, the designated operator of the vehicle and all persons who, with the consent of the program, use the motor vehicle insured under the policy. The limits for any coverage included in the program insurance policy that is also included in the owner's insurance policy must be equal to or greater than the coverage limits provided in the owner's insurance policy, as reported to the program by the owner. However, the program may not provide liability coverage that is less than three times the limits specified in chapter 46.30 RCW.

(2) Provide the vehicle's registered owner with a proof of compliance with the insurance requirements of this section and the requirements of chapter 46.30 RCW, a copy of which must be maintained

1   in the vehicle by the vehicle's registered owner at all times when the
2   vehicle is operated by any person other than the vehicle's registered
3   owner pursuant to the program.

4   (3) Collect, maintain, and make available to the vehicle's
5   registered owner, the vehicle's registered owner's primary automobile
6   liability insurer, and any government agency as required by law, at the
7   cost of the program, the following:

8   (a) Verifiable records that identify the date and time, initial and
9   final locations of the vehicle and miles driven when the vehicle is
10 under the control of a person other than the vehicle's registered owner
11 pursuant to the program; and

12   (b) Any information concerning damages or injuries arising out of
13 personal vehicle sharing pursuant to the program.

14   (4) Not knowingly permit the vehicle to be operated as a commercial
15 vehicle by a personal vehicle sharing user while engaged in personal
16 vehicle sharing. For the purposes of this subsection, "commercial
17 vehicle" has the meaning given that term in RCW 46.04.140.

18   (5) Ensure that the vehicle is a private passenger motor vehicle.

19   (6) Facilitate the installation, operation, and maintenance of
20 signage and computer hardware and software necessary for the vehicle to
21 be used in the program.

22   (7) Indemnify the vehicle's registered owner for the cost of damage
23 or theft of equipment installed under subsection (6) of this section
24 and any damage caused to the vehicle by the installation, operation, or
25 maintenance of the equipment.

26   (8) Provide the vehicle's registered owner and any person operating
27 the vehicle pursuant to the program with a disclosure that contains
28 information explaining the requirements of this section.

29   NEW SECTION. **Sec. 3.** (1) Notwithstanding any provision in the
30 owner's insurance policy and notwithstanding chapter 46.29 RCW, in the
31 event of any loss or injury that occurs at any time when the vehicle is
32 under the operation and control of a person, other than the vehicle's
33 registered owner, pursuant to a program, or is otherwise under the
34 control of a program, the program shall assume all liability of the
35 vehicle owner and shall be considered the vehicle owner for all
36 purposes.

37   (2) Nothing in subsection (1) of this section:

(a) Limits the liability of a program for any acts or omissions by the program that result in injury to any persons as a result of the use or operation of the program; or

(b) Limits the ability of the program to, by contract, seek indemnification from the vehicle's registered owner for any claims paid by the program for any loss or injury resulting from fraud or material misrepresentation in the maintenance of the vehicle by the vehicle's registered owner.

(3) A program continues to be liable under subsection (1) of this section until:

(a) The vehicle is returned to a location designated by the program; and

(b)(i) The expiration of the time period established for the vehicle occurs;

(ii) The intent to terminate the vehicle's personal vehicle sharing use is verifiably communicated to the program; or

(iii) The vehicle's registered owner takes possession and control of the vehicle.

(4)(a) A program shall assume liability, including the costs of defense and indemnification, for a claim in which a dispute exists as to who was in control of a private passenger motor vehicle when the loss giving rise to the claim occurred.

(b) The insurer of the vehicle shall indemnify the program to the extent of the insurer's obligation under the owner's insurance policy, if it is determined that the vehicle's registered owner was in control of the vehicle at the time of the loss.

(5) If a private passenger motor vehicle's registered owner is named as a defendant in a civil action for any loss or injury that occurs at any time when the vehicle is under the operation and control of a person, other than the vehicle's registered owner, pursuant to a program, or is otherwise under the control of a program, the program shall have the duty to defend and indemnify the vehicle's registered owner.

(6) Notwithstanding any provision in the owner's insurance policy, while the vehicle is under the operation and control of a person, other than the vehicle's registered owner, pursuant to a program, or is otherwise under the control of a program:

(a) The insurer providing coverage to the owner of a private passenger motor vehicle may exclude any and all coverage afforded under the owner's insurance policy; and

(b) A primary or excess insurer of the owners, operators, or maintainers of the vehicle may notify an insured that the insurer has no duty to defend or indemnify any person or organization for liability for any loss that occurs during use of the vehicle pursuant to a program.

(7) An owner's insurance policy for a private passenger motor vehicle may not be canceled, voided, terminated, rescinded, or nonrenewed solely on the basis that the vehicle has been made available for personal vehicle sharing pursuant to a program that is in compliance with the provisions of this chapter.

NEW SECTION. **Sec. 4.** A private passenger motor vehicle insured by the vehicle's registered owner under an owner's insurance policy may not be classified as a commercial motor vehicle or for-hire motor vehicle solely because the vehicle's registered owner allows the vehicle to be used for personal vehicle sharing if:

(1) The personal vehicle sharing is conducted under a program.

(2) The annual revenue received by the vehicle's registered owner that was generated by the personal vehicle sharing does not exceed the annual expenses of owning and operating the vehicle, including depreciation, interest, lease payments, motor vehicle loan payments, insurance, maintenance, parking, fuel, cleaning, automobile repair and costs associated with personal vehicle sharing, including but not limited to the installation, operation, and maintenance of computer hardware and software, signage identifying the vehicle as a personal vehicle sharing vehicle, and any fees charged by a program.

NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act constitute a new chapter in Title 48 RCW.

NEW SECTION. **Sec. 6.** This act applies to automobile liability insurance policies issued or renewed on or after January 1, 2013.

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