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**SUBSTITUTE HOUSE BILL 2152**

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**State of Washington**

**63rd Legislature**

**2014 Regular Session**

**By** House Labor & Workforce Development (originally sponsored by Representatives Habib, Sells, Hunter, Fitzgibbon, Ryu, Reykdal, Orwall, Gregerson, Riccelli, and Pike)

READ FIRST TIME 01/28/14.

1       AN ACT Relating to industrial insurance requirements and options  
2 for owners and lessees of for hire vehicles, limousines, and taxicabs;  
3 amending RCW 51.12.020, 51.12.185, and 81.72.240; and repealing RCW  
4 46.72.073, 46.72A.053, 51.12.180, 51.12.183, 51.16.240, and 81.72.230.

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

6       **Sec. 1.** RCW 51.12.020 and 2013 c 141 s 3 are each amended to read  
7 as follows:

8       The following are the only employments which shall not be included  
9 within the mandatory coverage of this title:

10       (1) Any person employed as a domestic servant in a private home by  
11 an employer who has less than two employees regularly employed forty or  
12 more hours a week in such employment.

13       (2) Any person employed to do gardening, maintenance, or repair, in  
14 or about the private home of the employer. For the purposes of this  
15 subsection, "maintenance" means the work of keeping in proper  
16 condition, "repair" means to restore to sound condition after damage,  
17 and "private home" means a person's place of residence.

18       (3) A person whose employment is not in the course of the trade,

1 business, or profession of his or her employer and is not in or about  
2 the private home of the employer.

3 (4) Any person performing services in return for aid or sustenance  
4 only, received from any religious or charitable organization.

5 (5) Sole proprietors or partners.

6 (6) Any child under eighteen years of age employed by his or her  
7 parent or parents in agricultural activities on the family farm.

8 (7) Jockeys while participating in or preparing horses for race  
9 meets licensed by the Washington horse racing commission pursuant to  
10 chapter 67.16 RCW.

11 (8)(a) Except as otherwise provided in (b) of this subsection, any  
12 bona fide officer of a corporation voluntarily elected or voluntarily  
13 appointed in accordance with the articles of incorporation or bylaws of  
14 the corporation, who at all times during the period involved is also a  
15 bona fide director, and who is also a shareholder of the corporation.  
16 Only such officers who exercise substantial control in the daily  
17 management of the corporation and whose primary responsibilities do not  
18 include the performance of manual labor are included within this  
19 subsection.

20 (b) Alternatively, a corporation that is not a "public company" as  
21 defined in RCW 23B.01.400 may exempt eight or fewer bona fide officers,  
22 who are voluntarily elected or voluntarily appointed in accordance with  
23 the articles of incorporation or bylaws of the corporation and who  
24 exercise substantial control in the daily management of the  
25 corporation, from coverage under this title without regard to the  
26 officers' performance of manual labor if the exempted officer is a  
27 shareholder of the corporation, or may exempt any number of officers if  
28 all the exempted officers are related by blood within the third degree  
29 or marriage. If a corporation that is not a "public company" elects to  
30 be covered under subsection (8)(a) of this section, the corporation's  
31 election must be made on a form prescribed by the department and under  
32 such reasonable rules as the department may adopt.

33 (c) Determinations respecting the status of persons performing  
34 services for a corporation shall be made, in part, by reference to  
35 Title 23B RCW and to compliance by the corporation with its own  
36 articles of incorporation and bylaws. For the purpose of determining  
37 coverage under this title, substance shall control over form, and

1 mandatory coverage under this title shall extend to all workers of this  
2 state, regardless of honorary titles conferred upon those actually  
3 serving as workers.

4 (d) A corporation may elect to cover officers who are exempted by  
5 this subsection in the manner provided by RCW 51.12.110.

6 (9) Services rendered by a musician or entertainer under a contract  
7 with a purchaser of the services, for a specific engagement or  
8 engagements when such musician or entertainer performs no other duties  
9 for the purchaser and is not regularly and continuously employed by the  
10 purchaser. A purchaser does not include the leader of a group or  
11 recognized entity who employs other than on a casual basis musicians or  
12 entertainers.

13 (10) Services performed by a newspaper vendor, carrier, or delivery  
14 person selling or distributing newspapers on the street, to offices, to  
15 businesses, or from house to house and any freelance news correspondent  
16 or "stringer" who, using his or her own equipment, chooses to submit  
17 material for publication for free or a fee when such material is  
18 published.

19 (11) Services performed by an insurance producer, as defined in RCW  
20 48.17.010, or a surplus line broker licensed under chapter 48.15 RCW.

21 (12) Services performed by a booth renter. However, a person  
22 exempted under this subsection may elect coverage under RCW 51.32.030.

23 (13) Members of a limited liability company, if either:

24 (a) Management of the company is vested in its members, and the  
25 members for whom exemption is sought would qualify for exemption under  
26 subsection (5) of this section were the company a sole proprietorship  
27 or partnership; or

28 (b) Management of the company is vested in one or more managers,  
29 and the members for whom the exemption is sought are managers who would  
30 qualify for exemption under subsection (8) of this section were the  
31 company a corporation.

32 (14) For hire vehicle operators under chapter 46.72 RCW who own or  
33 lease the for hire vehicle, chauffeurs under chapter 46.72A RCW who own  
34 or lease the limousine, and operators of taxicabs under chapter 81.72  
35 RCW who own or lease the taxicab. An owner or lessee may elect  
36 coverage in the manner provided by RCW 51.32.030.

1           **Sec. 2.** RCW 51.12.185 and 2011 c 190 s 4 are each amended to read  
2 as follows:

3           (1) ~~((In order to assist the department with controlling costs~~  
4 ~~related to the self-monitoring of industrial insurance claims by~~  
5 ~~independent owner-operated for hire vehicle, limousine, and taxicab~~  
6 ~~businesses,))~~ The department may appoint a panel of individuals with  
7 for hire vehicle, limousine, or taxicab transportation industry  
8 experience and expertise to advise the department.

9           (2) The owner or lessee of any for hire, limousine, or taxicab  
10 vehicle ~~((subject to mandatory industrial insurance pursuant to RCW~~  
11 ~~51.12.183))~~ is eligible for inclusion in a retrospective rating program  
12 authorized and established pursuant to chapter 51.18 RCW.

13           **Sec. 3.** RCW 81.72.240 and 2011 c 190 s 8 are each amended to read  
14 as follows:

15           (1) By September 1, 2014, and at least every two years thereafter,  
16 any city, town, county, or port district setting the rates charged for  
17 taxicab services under this chapter must adjust rates to accommodate  
18 ((changes)) increases or decreases in the cost of industrial insurance  
19 ((or in other industry-wide costs)).

20           (2) By September 1, 2014, and at least every two years thereafter,  
21 any city, town, county, or port district regulating lease rates under  
22 this chapter must adjust rates to accommodate increases or decreases in  
23 the cost of industrial insurance. Any changes in lease rates take  
24 effect upon entry into a new lease.

25           (3) Any business that as owner leases a taxicab licensed under this  
26 chapter to a for hire operator must make a reasonable effort to train  
27 the for hire operator in motor vehicle operation and safety  
28 requirements and monitor operator compliance. Monitoring operator  
29 compliance may include the use of vehicle operator monitoring cameras.

30           NEW SECTION. **Sec. 4.** The following acts or parts of acts are each  
31 repealed:

32           (1) RCW 46.72.073 (Certificate suspension or revocation--Failure to  
33 pay industrial insurance premiums--Rules--Cooperative agreements) and  
34 2011 c 190 s 5;

35           (2) RCW 46.72A.053 (Certificate suspension or revocation--Failure

1 to pay industrial insurance premiums--Rules--Cooperative agreements)  
2 and 2011 c 190 s 6;  
3 (3) RCW 51.12.180 (For hire vehicle businesses and operators--  
4 Findings--Declaration) and 2011 c 190 s 1;  
5 (4) RCW 51.12.183 (For hire vehicle businesses and operators--  
6 Mandatory coverage--Definitions) and 2011 c 190 s 2;  
7 (5) RCW 51.16.240 (For hire vehicle businesses and operators--Basis  
8 for premiums--Rules) and 2011 c 190 s 3; and  
9 (6) RCW 81.72.230 (License suspension or revocation--Failure to pay  
10 industrial insurance premiums--Rules--Cooperative agreements) and 2011  
11 c 190 s 7.

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