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**HOUSE BILL 2018**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Kirby, Stanford, and McBride

AN ACT Relating to insurance covering for hire operators using personal vehicles; amending RCW 46.72.010; and adding a new section to chapter 46.72 RCW.

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

**Sec.**  RCW 46.72.010 and 1996 c 87 s 18 are each amended to read as follows:

When used in this chapter:

(1) ((~~The term~~))"Department" means the department of licensing.

(2) "For hire vehicle" includes all vehicles used for the transportation of passengers for compensation, except auto stages, school buses operating exclusively under a contract to a school district, ride-sharing vehicles under chapter 46.74 RCW, limousine carriers licensed under chapter 46.72A RCW, vehicles used by nonprofit transportation providers for elderly or ((~~handicapped~~)) persons with disabilities and their attendants under chapter 81.66 RCW, vehicles used by auto transportation companies licensed under chapter 81.68 RCW, vehicles used to provide courtesy transportation at no charge to and from parking lots, hotels, and rental offices, and vehicles used by charter party carriers of passengers and excursion service carriers licensed under chapter 81.70 RCW((~~;~~)).

((~~(2) The term~~))(3) "For hire operator" means and includes any person, concern, or entity engaged in the transportation of passengers for compensation in for hire vehicles.

(4) "Personal vehicle" means a vehicle that is used by a driver in connection with providing for hire services.

(5) "Prearranged ride" means a route of travel that begins when a driver accepts a requested ride through a digital network or software application, continues while the driver transports the passenger in a personal vehicle, and ends when the passenger departs from the personal vehicle.

(6) "Passenger" means an individual in a personal vehicle for whom transport is provided, including an individual who uses a for hire operator digital network or software application to connect with a driver to obtain services.

NEW SECTION. **Sec.**  A new section is added to chapter 46.72 RCW to read as follows:

(1)(a) Before being used as a for hire vehicle, every personal vehicle must be covered by a primary automobile insurance policy. Except as provided in subsection (2) of this section, a for hire operator must secure this policy for every personal vehicle used to provide transportation services. For purposes of this section, a "primary automobile insurance policy" is not a private passenger automobile insurance policy.

(b) The insurance policy required under this section must:

(i) Provide liability coverage, applicable during the period before a driver accepts a requested ride through a digital network or software application, in an amount no less than that required under RCW 46.72.050, provide comprehensive and collision coverage, and provide underinsured motorist and personal injury protection coverage of one hundred thousand dollars per person and three hundred thousand dollars per accident;

(ii) Provide liability coverage, applicable during the period after a driver accepts a requested ride through a digital network or software application, in an amount no less than one hundred thousand dollars per person and one million dollars per accident, provide comprehensive and collision coverage, and provide underinsured motorist and personal injury protection coverage of one hundred thousand dollars per person and one million dollars per accident; and

(iii) Provide coverage at all times the driver is logged in to a for hire operator's digital network or software application and at all times a passenger is in the personal vehicle.

(2)(a) As an alternative to subsection (1) of this section, if the office of the insurance commissioner approves the offering of an insurance policy that recognizes that a person is acting as a driver for a for hire operator and using a personal vehicle to provide transportation services, a driver may secure a primary automobile insurance policy covering a personal vehicle and providing the same coverage as required in subsection (1) of this section.

(b) If a driver secures a primary automobile insurance policy covering a personal vehicle, the for hire operator must maintain an excess insurance policy covering that personal vehicle providing the same coverage as required in subsection (1) of this section.

(c) If the primary automobile insurance policy purchased by a driver pursuant to this section does not provide coverage for any reason, including that the policy lapsed or did not exist, the for hire operator's policy required under (b) of this subsection must provide the coverage required under this section beginning with the first dollar of a claim.

(3) The insurer providing coverage under subsections (1) and (2) of this section is the only insurer having the duty to defend any liability claim from an accident occurring while for hire services are being provided.

(4) In addition to the requirements in subsections (1) and (2) of this section, before allowing a person to provide services for a for hire operator, a for hire operator must verify that he or she is complying with the requirements of RCW 46.30.020.

(5)(a) If a for hire operator purchases a primary automobile insurance policy under subsection (1) of this section, it must provide proof of the policy to the department.

(b) Alternatively, if a driver purchases a primary automobile insurance policy as allowed under subsection (2) of this section, the for hire operator must verify that the driver has done so. Additionally, the for hire operator must provide proof to the department of the excess insurance policy required under subsection (2)(b) of this section.

(c) Upon request from the department, drivers and for hire operators must provide copies of the policies required under this section to the department.

(6) A primary automobile insurance policy required under subsection (1) or (2) of this section may be placed with an insurer licensed under Title 48 RCW to provide insurance in the state of Washington or as an eligible surplus line insurance policy as described in RCW 48.15.040.

(7) This section does not require a private passenger automobile insurance policy to provide coverage or a duty to defend for the period of time in which a driver is logged in to a for hire operator's digital network or software application.

(8) If more than one insurance policy provides valid and collectible coverage for a loss arising out of an occurrence involving a motor vehicle operated by a driver, the responsibility for the claim must be divided as follows:

(a) If the driver has been matched with a passenger and is traveling to pick up the passenger, or the driver is providing services to a passenger, the for hire operator that matched the driver and passenger must provide insurance coverage; or

(b) If the driver is logged in to more than one for hire operator digital network or software application but has not been matched with a passenger, the liability must be divided equally among all of the applicable insurance policies.

(9) In a claims coverage investigation, a for hire operator must cooperate with a private passenger automobile insurance policy insurer that also insures the driver's vehicle, including the provision of relevant dates and times during which an incident occurred that involved the driver while the driver was logged in to a for hire operator digital network or software application.

(10) If a for hire operator's insurer makes a payment for a claim covered under comprehensive coverage or collision coverage, the for hire operator must, to the extent possible, direct the insurer to issue the payment directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder on the covered vehicle.

(11) After July 1, 2016, an insurance company regulated under Title 48 RCW may not deny an otherwise covered claim arising exclusively out of the personal use of the private passenger automobile solely on the basis that the insured, at other times, used the private passenger automobile covered by the policy to provide for hire services.

(12) The office of the insurance commissioner must track data regarding the levels of coverage provided in subsection (1) of this section. Beginning January 1, 2016, and annually thereafter, the office of the insurance commissioner must provide its findings to the committees of the legislature addressing business and financial institutions.

(13)(a) A for hire operator must make the following disclosures to a prospective driver in the prospective driver's terms of service:

WHILE ON THE FOR HIRE OPERATOR'S DIGITAL NETWORK OR SOFTWARE APPLICATION, YOUR PRIVATE PASSENGER AUTOMOBILE INSURANCE POLICY MIGHT NOT AFFORD LIABILITY, UNDERINSURED MOTORIST, PERSONAL INJURY PROTECTION, COMPREHENSIVE, OR COLLISION COVERAGE, DEPENDING ON THE TERMS OF THE POLICY.

IF THE VEHICLE THAT YOU PLAN TO USE TO PROVIDE TRANSPORTATION SERVICES HAS A LIEN AGAINST IT, YOU MUST NOTIFY THE LIENHOLDER THAT YOU WILL BE USING THE VEHICLE FOR TRANSPORTATION THAT MAY VIOLATE THE TERMS OF YOUR CONTRACT WITH THE LIENHOLDER.

(b) The prospective driver must acknowledge the terms of service electronically or by signature.

**--- END ---**