

# HOUSE BILL REPORT

## ESHB 2131

---

### As Amended by the Senate

**Title:** An act relating to insurance for providers of commercial transportation services.

**Brief Description:** Regulating insurance for providers of commercial transportation services.

**Sponsors:** House Committee on Business & Financial Services (originally sponsored by Representative Kirby).

#### **Brief History:**

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

Business & Financial Services: 2/17/15, 2/18/15 [DPS].

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

Passed House: 3/3/15, 77-17.

Senate Amended.

Passed Senate: 4/13/15, 39-7.

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

- Establishes insurance requirements for providers of commercial transportation services, using a personal vehicle.
- Exempts providers who already have insurance pursuant to statutes that govern for-hire providers and limousine transportation providers.

---

### HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Kirby, Chair; Ryu, Vice Chair; Vick, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Blake, G. Hunt, Kochmar, McCabe, Santos and Stanford.

**Staff:** Linda Merelle (786-7092).

#### **Background:**

A consumer's personal automobile insurance covers his or her private passenger automobile, which is an individually owned motor vehicle that is not used as a public or livery

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

conveyance for passengers and is not rented to others. A "livery" is a common design or paint scheme used by a company. Personal automobile insurance does not cover commercial use of a vehicle.

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

The provisions of this act define and establish the insurance requirements for commercial transportation service providers and constitute a new chapter in Title 48.

#### *Definitions.*

The following new terms are added:

- A "commercial transportation service provider" means an entity operating in Washington that uses a digital network or software application to connect passengers to drivers for the purpose of providing a prearranged ride.
- A "driver" is an individual who uses a personal vehicle to provide services for passengers matched through a commercial transportation service provider's network or software application. The driver does not have to be an employee of the service provider.
- A "personal vehicle" means a vehicle that is used by a driver in connection with providing services for commercial transportation services provider.
- A "prearranged ride" is 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.
- A "passenger" is an individual who uses a commercial transportation service provider's digital network or software application to connect with a driver.

#### *Required Insurance.*

Before being used for a commercial transportation services provider (Provider), every personal vehicle must be covered by a primary automobile insurance policy (primary policy). A Provider must secure this primary policy for every personal vehicle used to provide transportation services. A primary policy is separate from a personal automobile insurance policy that covers private passenger automobiles.

The primary policy must provide liability coverage, applicable during the period before a driver accepts a requested ride through a digital network or software application, as follows:

- at least \$50,000 per person and \$100,000 per accident for liability and underinsured motorists coverage, each; the minimum liability coverage for property damage is \$30,000;
- personal injury protection coverage; and
- comprehensive and collision coverage, with a maximum deductible of \$500.

The primary policy must also provide coverage during the period of a prearranged ride, from the time that the driver is matched with a passenger, while the passenger is in the vehicle, and until the passenger exits the vehicle, as follows:

- liability and underinsured motorist coverage of \$1 million for combined single limit coverage for each;
- personal injury protection; and
- comprehensive and collision coverage, with a maximum deductible of \$500.

A driver who provides transportation services for a Provider and uses his or her personal vehicle may purchase a primary policy that provides the same insurance coverage required for a Provider. Such policy must be approved by the Office of the Insurance Commissioner. The policy coverage may be in the form of a rider to, or an endorsement of, the driver's private passenger automobile insurance policy. The primary policy may also be purchased by both the Provider and the driver.

If the driver's primary policy lapses or does not exist, the Provider's policy must provide coverage that begins with the first dollar of a claim. If a driver purchases a primary policy, the Provider must verify that the driver has done so.

The primary policy required under the provisions of this bill may be obtained from an insurer licensed under Title 48 or an eligible surplus lines insurer. No private passenger automobile insurance policy is required to provide primary or excess coverage or have a duty to defend for the period of time when the driver is logged into the Provider's digital network or software application.

Drivers and entities that already have insurance coverage pursuant to statutes governing for-hire operators and limousine transportation providers are not required to obtain a primary policy.

#### *Required Disclosures.*

A Provider must disclose to a prospective driver that his or her private passenger automobile insurance may not provide coverage, depending on the terms of the policy. The disclosure must also inform the prospective driver that he or she must notify the lienholder on the personal vehicle that the driver may be using the vehicle for transportation services for the Provider. This disclosure must be acknowledged by the driver electronically or by signature in the terms of service.

#### *Assignment of Liability.*

If one or more insurance policies provide valid coverage, the responsibility for the claim is as follows:

- on the Provider if the driver has been matched with a passenger and is traveling to pick up the passenger or the driver is providing services to the passenger; and
- equally among insurance policies where a driver is logged in to more than one Provider's digital network or software application but has not been matched with a passenger.

If there is a claims coverage investigation, the Provider must cooperate with a private passenger automobile insurance policy insurer or other insurer that also insures the driver's vehicle, including providing relevant dates and times during which an incident occurred and when the driver was logged in to a digital network or software application. Within 10 business days of the date of the accident or loss, the Provider must supply a copy of the company's electronic record showing the precise times that the participating driver was logged into the digital network. The Provider must retain all data, communications, or documents related to insurance coverage or accident details for a period of not less than the applicable statute of limitations, plus two years from the date of the accident.

*Denial of Coverage.*

After July 1, 2016, an insurance company may not deny an otherwise covered claim arising exclusively out of the personal use of a private passenger automobile solely on the basis that the insured, at other times, used the vehicle to provide commercial transportation services.

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

The Senate amendment:

- removes the term "commercial transportation services provider" and related terms and replaces it with "transportation network company" and related terms;
- removes the requirement for comprehensive and collision insurance coverage for personal vehicles used to transport passengers for a prearranged ride;
- requires the company to provide proof of insurance to a driver and the driver to provide proof of insurance to the company if he or she purchases a primary policy to cover a personal vehicle;
- permits private passenger insurers to exclude all coverage under a private passenger policy while a driver is logged into a digital network;
- provides that provisions regarding insurance requirements for "for hire" operators do not apply to transportation network companies;
- provides that the statutes regarding financial responsibility under Chapter 46.29 do not apply to exclusions allowed by private passenger insurers;
- requires payment for claims for comprehensive or collision damage to be paid directly to repair shop or jointly to owner and lienholder on vehicle; and
- exempts drivers for transportation network companies, for hire operators, limousines, and taxicabs from mandatory workers' compensation insurance coverage, and allows them to opt in.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) There needs to be a bright line painted between private passenger auto usage and commercial activity. This bill does that. It is very important for the state to pass information that addresses insurance. Currently, thousands of drivers are on the road without insurance, and some cannot get insurance. For hire drivers must purchase insurance at great cost. Passengers and pedestrians and other vehicles on the road are all at risk.

(Opposed) People who work for commercial transportation providers are doing the same thing as taxi drivers by transporting passengers for compensation. Everyone should have the same insurance coverage. There should be no special coverage for commercial drivers. When they have the software application on, they are for hire. The definition for commercial transportation providers does not provide an exclusion for licensed taxi cab vehicles. It will put everyone out of business. The bill also needs a better definition for passenger and prearranged ride. There needs to be a statewide uniform rule. The coverage limits contained in the bill are either not attainable or not available. They are crafted with the Puget Sound area in mind. Clark County does not have the same kind of volume.

(Other) Passengers and innocent third drivers need to be safe. The Legislature needs to set good, strong insurance standards, and the devil is in the details. Trying to address the personal injury protection and underinsured motorist coverage is positive for consumers. The state should look at the fairness of the whole process. A \$1 million coverage requirement will raise insurance premiums. The Legislature should take a look at regulations that have been enacted in other states and in cities that are similar in size. There are concerns that commercial insurance is required when the software application is on, and such coverage may not be required at that point. The option for the driver to purchase insurance is appreciated, but there is only one insurance provider.

**Persons Testifying:** (In support) Representative Kirby, prime sponsor; Mel Sorensen, Property, Casualty Insurance, Allstate, and American Family Insurance; Jean Leonard, Washington Insurers and State Farm; and Brenda Wiest, Teamsters 117.

(Opposed) Chris Van Dyk, Qride; Samatar Guled, For Hire Association; and Shannon Stewart, Clark County Cab.

(Other) Michael Temple, Washington State Association of Justice; Jim Justin, Lyft; and Abdul Yusuf, For Hire Association.

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