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HOUSE BILL 1821

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State of Washington

64th Legislature

2015 Regular Session

By Representatives Sullivan, Manweller, Condotta, Orwall, Blake, Fitzgibbon, and Gregerson

Read first time 01/29/15. Referred to Committee on Labor.

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

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

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

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

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

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

19 (3) A person whose employment is not in the course of the trade,  
20 business, or profession of his or her employer and is not in or about  
21 the private home of the employer.

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

4 (5) Sole proprietors or partners.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (1) ~~((In order to assist the department with controlling costs~~  
39 ~~related to the self-monitoring of industrial insurance claims by~~

1 ~~independent owner-operated for hire vehicle, limousine, and taxicab~~  
2 ~~businesses,))~~ The department may appoint a panel of individuals with  
3 for hire vehicle, limousine, or taxicab transportation industry  
4 experience and expertise to advise the department.

5 (2) The owner or lessee of any for hire, limousine, or taxicab  
6 vehicle (~~((subject to mandatory industrial insurance pursuant to RCW~~  
7 ~~51.12.183))~~) is eligible for inclusion in a retrospective rating  
8 program authorized and established pursuant to chapter 51.18 RCW.

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

11 (1) By September 1, 2015, and at least every two years  
12 thereafter, any city, town, county, or port district setting the  
13 rates charged for taxicab services under this chapter must adjust  
14 rates to accommodate ((changes)) increases or decreases in the cost  
15 of industrial insurance ((or in other industry wide costs)).

16 (2) By September 1, 2015, and at least every two years  
17 thereafter, any city, town, county, or port district regulating lease  
18 rates under this chapter must adjust rates to accommodate increases  
19 or decreases in the cost of industrial insurance. Any changes in  
20 lease rates take effect upon entry into a new lease.

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

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

29 (1) RCW 46.72.073 (Certificate suspension or revocation—Failure  
30 to pay industrial insurance premiums—Rules—Cooperative agreements)  
31 and 2011 c 190 s 5;

32 (2) RCW 46.72A.053 (Certificate suspension or revocation—Failure  
33 to pay industrial insurance premiums—Rules—Cooperative agreements)  
34 and 2011 c 190 s 6;

35 (3) RCW 51.12.180 (For hire vehicle businesses and operators—  
36 Findings—Declaration) and 2011 c 190 s 1;

1           (4) RCW 51.12.183 (For hire vehicle businesses and operators—  
2 Mandatory coverage—Definitions) and 2011 c 190 s 2;

3           (5) RCW 51.16.240 (For hire vehicle businesses and operators—  
4 Basis for premiums—Rules) and 2011 c 190 s 3; and

5           (6) RCW 81.72.230 (License suspension or revocation—Failure to  
6 pay industrial insurance premiums—Rules—Cooperative agreements) and  
7 2011 c 190 s 7.

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