
SENATE BILL 5893

State of Washington

66th Legislature

2019 Regular Session

By Senators Hobbs and King

1 AN ACT Relating to the private vehicle rental act; amending RCW
2 46.30.020; adding a new chapter to Title 46 RCW; and creating a new
3 section.

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

5 NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this
6 section apply throughout this chapter unless the context clearly
7 requires otherwise.

8 (1) "Program rental period" or "rental period" means the period
9 of time when a renter takes possession and control of a vehicle
10 available for private vehicle rental, includes the time when such
11 vehicle is under the control of the program provider, and continues
12 until the following conditions are met:

13 (a) The vehicle is:

14 (i) Retrieved by the owner or owner's designee;

15 (ii) Returned to a location agreed upon by the owner and the
16 renter; or

17 (iii) Returned to a location designated by the program provider;

18 and

19 (b) One of the following occurs:

20 (i) The time period established through the program expires;

1 (ii) The renter verifiably communicates to the program provider
2 or owner that they deem the rental period terminated; or

3 (iii) The owner or the program provider takes possession and
4 control of the vehicle.

5 (2) "Group policy" means an insurance policy issued pursuant to
6 section 4 of this act.

7 NEW SECTION. **Sec. 2.** REQUIREMENTS AND LIMITATIONS FOR PRIVATE
8 VEHICLE RENTAL. (1) No personal passenger motor vehicle insured, or
9 subject to being insured, by its registered owner pursuant to RCW
10 46.30.020 is or may be classified as a commercial vehicle, for-hire
11 vehicle, permissive use vehicle, taxicab, or livery solely because
12 its registered owner allows it to be used for private vehicle rental,
13 as long as all of the following circumstances apply:

14 (a) The private vehicle rental is compliant with a personal
15 vehicle rental program as provided for in this chapter;

16 (b) The owner, or program provider, does not knowingly place the
17 vehicle, or allow the vehicle to be placed, into use as a commercial
18 vehicle, or as a vehicle for hire by a private vehicle renter, while
19 the vehicle is utilized for private vehicle rental; and

20 (c) The number of personal passenger motor vehicles a single
21 individual, or multiple individuals residing in the same household,
22 has enrolled in any private vehicle rental program, or combination of
23 private vehicle rental programs, does not exceed four.

24 (2) A personal passenger motor vehicle liability insurance
25 company may cancel or refuse coverage to an owner solely due to the
26 number of vehicles enrolled in private vehicle rental, if the number
27 of vehicles enrolled in any private rental program, or combination of
28 programs, either by the insured, or in combination with other
29 household residents, exceeds four.

30 (3) A program provider shall, for each vehicle of which it
31 facilitates the rental, do all of the following:

32 (a) During the rental period for a vehicle engaged in private
33 vehicle rental, procure group insurance coverage for each vehicle and
34 authorized driver of any such vehicle. Such insurance shall, at a
35 minimum, provide for each vehicle:

36 (i) Liability coverage at least equal to the minimum financial
37 responsibility requirements for personal passenger motor vehicles of
38 the state in which the vehicle is registered; and

1 (ii) Property and casualty coverage including comprehensive and
2 collision protection, as further described in section 4(4) and (5) of
3 this act;

4 (b) Provide the registered owner of the vehicle engaged in
5 private vehicle rental with suitable proof of compliance with the
6 insurance requirements of this section and the requirements of RCW
7 46.30.020, a copy of which shall be maintained in the vehicle by the
8 owner during any time when the vehicle is operated by a renter, or
9 person other than the owner, pursuant to a private vehicle rental
10 program;

11 (c) Not permit the vehicle to be operated for commercial use or
12 as a vehicle for hire by a renter while engaged in private vehicle
13 rental;

14 (d) Provide each renter, for each rental transaction under the
15 program, at the time of each rental:

16 (i) Access to an insurance identification card approved for use
17 by the state in which the vehicle is registered; or other
18 documentation, able to be carried in the vehicle at all times during
19 the rental period, that proves the insurance coverage referred to in
20 (a) of this subsection is in full force and effect; and

21 (ii) The means, via a toll-free number, email address, or such
22 other form of communication with a law enforcement officer, a
23 representative of the department of licensing, or other officer of
24 the state in which the vehicle is registered or any political
25 subdivision thereof, to confirm in real time that insurance coverage
26 provided for in (a) of this subsection is in effect;

27 (e) Require that every vehicle made available for private vehicle
28 rental comply with the minimum financial responsibility requirements
29 of the state in which the vehicle is registered;

30 (f) Require that every vehicle used in a program is a private
31 motor vehicle;

32 (g) Facilitate the installation, operation, and maintenance of
33 its own signage and computer hardware and software to the extent
34 necessary for the vehicle to be used in the program;

35 (h) Indemnify and hold harmless the owner for the cost of damage
36 or theft of equipment installed by the program provider under (g) of
37 this subsection for any damage caused to the vehicle by the
38 installation, operation, or maintenance of such equipment;

39 (i) Collect, maintain, and make available, to any government
40 agency as required by law, at the cost of the program, the owner's

1 primary motor vehicle liability insurer; the renter's primary
2 automobile, excess, or umbrella insurer; and the following
3 information pertaining to incidents that occurred during any rental
4 period:

5 (i) Verifiable records of the rental period for each vehicle,
6 and, to the extent electronic equipment for monitoring the following
7 information is installed in the vehicle, verifiable electronic
8 records of the time, initial and final locations of the vehicle, and,
9 to the extent mileage is collected, miles driven; and

10 (ii) In instances where an insurance claim has been filed with a
11 group insurer, any and all information relevant to the claim,
12 including payments by the program provider concerning accidents,
13 damages, and injuries;

14 (j) Ensure that the owner and renter are given notice prior to
15 the first use or operation of a private motor vehicle pursuant to
16 enrollment in a private vehicle rental program, that:

17 (i) During the rental period, the owner's insurer may exclude any
18 and all coverage afforded to its policy and such owner's insurer has
19 the right to notify an insured that it has no duty to defend or
20 indemnify any person or organization for liability for any loss that
21 occurs during the rental period; and

22 (ii) The group policy and physical damage coverage contract may
23 not provide coverage outside of the rental period; and

24 (k) Comply with all statutory and regulatory obligations for
25 private passenger motor vehicle rental including, but not limited to,
26 compliance with the provisions of RCW 46.63.073.

27 NEW SECTION. **Sec. 3.** LIABILITY PROVISIONS. (1) Notwithstanding
28 any other provision of law or any provision in a private passenger
29 motor vehicle owner's automobile insurance policy, in the event of a
30 loss or injury that occurs during the rental period or while the
31 private motor vehicle is otherwise under the control of a private
32 vehicle rental program provider, the program provider shall be deemed
33 the owner of the vehicle under this title, and such other statutes
34 that may impose liability upon an owner of a private passenger motor
35 vehicle solely based on such ownership as if the program provider
36 were the registered owner of the vehicle. The program provider shall
37 retain such liability irrespective of a lapse in the group policy or
38 any insurance policy under which the program is insured, or whether

1 such liability is covered under the group policy or any insurance
2 policy under which the program is insured.

3 (2) A program provider's group policy must provide coverage
4 during the rental period for an owner's private motor vehicle.

5 (3) The insurer or insurers providing group liability insurance
6 to the private vehicle rental program pursuant to section 4(1) of
7 this act and group physical damage insurance to the private vehicle
8 rental program pursuant to section 4(4) of this act assume liability
9 for a claim in which a dispute exists regarding who was in control of
10 the vehicle when the loss occurred giving rise to the claim, and the
11 owner's private passenger motor vehicle insurer shall indemnify the
12 private vehicle rental program's group insurer or insurers, to the
13 extent of its obligation under the applicable insurance policy, if it
14 is determined that the vehicle's owner was in control of the vehicle
15 at the time of the loss. The program shall notify the owner's insurer
16 of any such dispute within ten business days of becoming aware that
17 such a dispute exists.

18 (4) In the event that the owner of the vehicle or its insurer is
19 named as a defendant in a civil action for a loss or injury that
20 occurs during any time within the rental period, or otherwise under
21 the control of a private vehicle rental program, the program's group
22 liability insurance insurer under section 4(1) of this act has the
23 duty to defend and indemnify the vehicle's owner and the owner's
24 insurer, subject to the provisions of subsection (3) of this section.

25 (5) Notwithstanding any other provision of law to the contrary,
26 while a private motor vehicle is used by a person other than its
27 owner, pursuant to private vehicle rental facilitated through a
28 private vehicle rental program, all of the following apply:

29 (a) The insurer of that vehicle may exclude any and all coverage
30 for liability, uninsured, underinsured, collision physical damage,
31 comprehensive physical damage, and first-party benefits that may
32 otherwise be afforded pursuant to its policy; and

33 (b) The primary and excess insurer or insurers of the owner of
34 the private motor vehicle used in a private vehicle rental program
35 have the right to notify the insured that it has no duty to defend or
36 indemnify any person or organization for liability for any loss that
37 occurs during the rental period of the vehicle in a private vehicle
38 rental program.

39 (6) No owner's policy of insurance may be canceled, voided,
40 terminated, rescinded, or nonrenewed, solely on the basis that the

1 private motor vehicle has been made available for private vehicle
2 rental pursuant to a private vehicle rental program that is in
3 compliance with the provisions of this section. However:

4 (a) The provisions of this subsection (6) do not pertain to
5 cancellations in accordance with the provisions of chapter 48.18 RCW;

6 (b) An insurer may refuse to enroll a vehicle in a usage-based
7 insurance program, where such usage-based insurance program
8 continually monitors usage electronically to determine acceleration,
9 braking, miles driven, and other indicia of driving behavior, if that
10 vehicle is used in a private vehicle rental program under this
11 chapter; and

12 (c) An insurer may cancel or nonrenew a policy that insures a
13 vehicle used in the private vehicle rental program if that vehicle is
14 enrolled in such a usage-based insurance program. The insurer must
15 immediately offer the insured a new policy with the same coverages
16 and preexisting rates, but without enrollment in the usage-based
17 insurance program.

18 NEW SECTION. **Sec. 4.** GROUP INSURANCE FOR PRIVATE VEHICLE RENTAL
19 PROGRAMS. (1) An insurer which is authorized or eligible to do
20 business in the state may issue, or issue for delivery in this state,
21 a group policy of liability and property and casualty insurance to a
22 private vehicle rental program provider to insure the private vehicle
23 rental program, and the renters, authorized drivers, and occupants of
24 the private motor vehicle, as well as the program provider, its
25 agents, employees, directors, officers, and assigns, provided:

26 (a) That such policy provides first-party coverage, liability,
27 property, comprehensive, collision, and uninsured and underinsured
28 motorist coverage for the private motor vehicle and its authorized
29 operators and occupants for claims and damages resulting from the use
30 or operation of that vehicle during the rental period;

31 (b) That such policy is primary with respect to any other
32 insurance available to the owner of the private motor vehicle;

33 (c) That such policy is secondary with respect to any other
34 insurance available to the renter, authorized or permissive operator,
35 and occupants of the private motor vehicle;

36 (d) That such insurer complies with the provisions of RCW
37 46.30.020; and

38 (e) That for the purposes of group insurance written under this
39 section only, the rates charged by the insurer for group liability

1 insurance as provided for in this section are filed with the
2 insurance commissioner on a file and use basis.

3 (2) An insurer which issues an insurance policy described in
4 subsection (1) of this section shall issue such policy identifying
5 the private vehicle rental program and program provider as the named
6 insureds; and any such policy must include a provision that provides
7 coverage, without prior notice to the insurer, for all private motor
8 vehicles during the rental period and such policy must further
9 include a provision that the vehicles' renters, authorized or
10 permissive operators, and occupants are included as insureds under
11 the policy to the same extent that they would be insureds under a
12 private passenger motor vehicle policy issued pursuant to chapter
13 48.22 RCW.

14 (3) A group policy, as provided for in subsections (1) and (2) of
15 this section, may only be issued in accordance with the provisions of
16 this chapter.

17 (4) A program provider may contractually assume the risk of
18 physical damage loss to private motor vehicles during the time that
19 the vehicles are in the custody of the private vehicle renter or
20 private vehicle rental program provider.

21 (a) Such assumption of risk of physical damage loss to the
22 vehicle is not physical damage insurance.

23 (b) A program provider may offer optional vehicle protection in
24 accordance with the provisions of chapter 48.22 RCW.

25 (5) An insurer which is authorized or eligible to do business in
26 the state may issue a group policy of physical damage insurance to a
27 private vehicle rental program and to the owners of vehicles
28 participating in that program to insure against physical damage loss
29 to vehicles while the vehicles are in the custody of the private
30 vehicle rental program or private vehicle renter. Such group policy
31 must provide primary coverage for physical damage loss either by
32 collision, comprehensive, or both, to the vehicle while it is in the
33 custody of the private vehicle rental program or a private vehicle
34 renter.

35 (6) If the group coverage provided for in subsection (5) of this
36 section is placed with an eligible excess line insurer, compliance
37 with the excess line statutes and regulations of this state must be
38 performed with respect to the group as a whole and not with respect
39 to individual group members.

1 (7) An insurer which issues a group insurance policy described in
2 subsection (5) of this section shall issue such policy identifying
3 the private vehicle rental program as the named insured, and any such
4 policy must include:

5 (a) A provision that provides primary coverage, without prior
6 notice to the insurer, for all private motor vehicles during the
7 rental period;

8 (b) A provision that claims will be adjusted pursuant to chapter
9 48.30 RCW; and

10 (c) Physical damage coverage for damage or loss to the owner's
11 vehicle incurred during the rental period at a level no less than
12 that of third-party physical damage coverage.

13 (8) A group policy as provided for in subsections (5), (6), and
14 (7) of this section may only be issued in accordance with the
15 provisions of this section.

16 **Sec. 5.** RCW 46.30.020 and 2013 2nd sp.s. c 23 s 20 are each
17 amended to read as follows:

18 (1)(a) No person may operate a motor vehicle subject to
19 registration under chapter 46.16A RCW in this state unless the person
20 is insured under a motor vehicle liability policy with liability
21 limits of at least the amounts provided in RCW 46.29.090, is self-
22 insured as provided in RCW 46.29.630, is covered by a certificate of
23 deposit in conformance with RCW 46.29.550, or is covered by a
24 liability bond of at least the amounts provided in RCW 46.29.090.
25 Proof of financial responsibility for motor vehicle operation must be
26 provided on the request of a law enforcement officer in the format
27 specified under RCW 46.30.030.

28 (b) A person who drives a motor vehicle that is required to be
29 registered in another state that requires drivers and owners of
30 vehicles in that state to maintain insurance or financial
31 responsibility shall, when requested by a law enforcement officer,
32 provide evidence of financial responsibility or insurance as is
33 required by the laws of the state in which the vehicle is registered.

34 (c) When asked to do so by a law enforcement officer, failure to
35 display proof of financial responsibility for motor vehicle operation
36 as specified under RCW 46.30.030 creates a presumption that the
37 person does not have motor vehicle insurance.

1 (d) Failure to provide proof of motor vehicle insurance is a
2 traffic infraction and is subject to penalties as set by the supreme
3 court under RCW 46.63.110 or community restitution.

4 (e) For the purposes of this section, when a person uses a
5 portable electronic device to display proof of financial security to
6 a law enforcement officer, the officer may only view the proof of
7 financial security and is otherwise prohibited from viewing any other
8 content on the portable electronic device.

9 (f) Whenever a person presents a portable electronic device
10 pursuant to this section, that person assumes all liability for any
11 damage to the portable electronic device.

12 (2) If a person cited for a violation of subsection (1) of this
13 section appears in person before the court or a violations bureau and
14 provides written evidence that at the time the person was cited, he
15 or she was in compliance with the financial responsibility
16 requirements of subsection (1) of this section, the citation shall be
17 dismissed and the court or violations bureau may assess court
18 administrative costs of twenty-five dollars at the time of dismissal.
19 In lieu of personal appearance, a person cited for a violation of
20 subsection (1) of this section may, before the date scheduled for the
21 person's appearance before the court or violations bureau, submit by
22 mail to the court or violations bureau written evidence that at the
23 time the person was cited, he or she was in compliance with the
24 financial responsibility requirements of subsection (1) of this
25 section, in which case the citation shall be dismissed without cost,
26 except that the court or violations bureau may assess court
27 administrative costs of twenty-five dollars at the time of dismissal.

28 (3) The provisions of this chapter shall not govern:

29 (a) The operation of a motor vehicle registered under RCW
30 46.18.220 or 46.18.255, governed by RCW 46.16A.170, or registered
31 with the Washington utilities and transportation commission as common
32 or contract carriers; or

33 (b) The operation of a motorcycle as defined in RCW 46.04.330, a
34 motor-driven cycle as defined in RCW 46.04.332, a moped as defined in
35 RCW 46.04.304, or a wheeled all-terrain vehicle as defined in RCW
36 46.09.310.

37 (4)(a) In the case of a private motor vehicle that is used in
38 connection with a private vehicle rental program, as provided in
39 chapter 46.--- RCW (the new chapter created in section 7 of this
40 act), the insurance requirements set forth in this section are met by

1 a group insurance policy, as specified in section 4 of this act,
2 issued to a program provider and to the private vehicle renters and
3 authorized or permissive drivers of that program for any time that
4 the private motor vehicle is being used in connection with the
5 private vehicle rental program.

6 (b) In the case of financial security procured by a program
7 provider of a private vehicle rental program as set forth in section
8 4 of this act, the program provider shall provide the department with
9 proof of financial security in the form of a group insurance policy
10 covering itself and the owners of all private motor vehicles
11 registered in this state that participate in the program as insured
12 group members, covering those vehicles while they are being used in
13 conjunction with that program. Such proof may not be used in
14 connection with the registration of the vehicles and no such vehicle
15 may be registered unless the owner of the vehicle separately complies
16 with this section.

17 (5) RCW 46.29.490 shall not be deemed to govern all motor vehicle
18 liability policies required by this chapter but only those certified
19 for the purposes stated in chapter 46.29 RCW.

20 NEW SECTION. Sec. 6. SHORT TITLE. This act may be known and
21 cited as the private vehicle rental act.

22 NEW SECTION. Sec. 7. Sections 1 through 4 of this act
23 constitute a new chapter in Title 46 RCW.

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