

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5836

62nd Legislature
2011 Regular Session

Passed by the Senate April 22, 2011
YEAS 45 NAYS 0

President of the Senate

Passed by the House April 21, 2011
YEAS 97 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5836** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5836

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By Senate Transportation (originally sponsored by Senators King, Haugen, Hobbs, Delvin, and Shin)

READ FIRST TIME 02/25/11.

1 AN ACT Relating to allowing certain private transportation
2 providers to use certain public transportation facilities; amending RCW
3 46.61.165, 47.04.290, and 47.52.025; adding a new section to chapter
4 47.04 RCW; and creating a new section.

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

6 **Sec. 1.** RCW 46.61.165 and 1999 c 206 s 1 are each amended to read
7 as follows:

8 (1) The state department of transportation and the local
9 authorities are authorized to reserve all or any portion of any highway
10 under their respective jurisdictions, including any designated lane or
11 ramp, for the exclusive or preferential use of one or more of the
12 following: (a) Public transportation vehicles (~~(or)~~); (b) private
13 motor vehicles carrying no fewer than a specified number of passengers;
14 or (c) the following private transportation provider vehicles if the
15 vehicle has the capacity to carry eight or more passengers, regardless
16 of the number of passengers in the vehicle, and if such use does not
17 interfere with the efficiency, reliability, and safety of public
18 transportation operations: (i) Auto transportation company vehicles
19 regulated under chapter 81.68 RCW; (ii) passenger charter carrier

1 vehicles regulated under chapter 81.70 RCW, except marked or unmarked
2 stretch limousines and stretch sport utility vehicles as defined under
3 department of licensing rules; (iii) private nonprofit transportation
4 provider vehicles regulated under chapter 81.66 RCW; and (iv) private
5 employer transportation service vehicles, when such limitation will
6 increase the efficient utilization of the highway or will aid in the
7 conservation of energy resources.

8 (2) Any transit-only lanes that allow other vehicles to access
9 abutting businesses that are authorized pursuant to subsection (1) of
10 this section may not be authorized for the use of private
11 transportation provider vehicles as described under subsection (1) of
12 this section.

13 (3) The state department of transportation and the local
14 authorities authorized to reserve all or any portion of any highway
15 under their respective jurisdictions, for exclusive or preferential
16 use, may prohibit the use of a high occupancy vehicle lane by the
17 following private transportation provider vehicles: (a) Auto
18 transportation company vehicles regulated under chapter 81.68 RCW; (b)
19 passenger charter carrier vehicles regulated under chapter 81.70 RCW,
20 and marked or unmarked limousines and stretch sport utility vehicles as
21 defined under department of licensing rules; (c) private nonprofit
22 transportation provider vehicles regulated under chapter 81.66 RCW; and
23 (d) private employer transportation service vehicles, when the average
24 transit speed in the high occupancy vehicle lane fails to meet
25 department of transportation standards and falls below forty-five miles
26 per hour at least ninety percent of the time during the peak hours, as
27 determined by the department of transportation or the local authority,
28 whichever operates the facility.

29 (4) Regulations authorizing such exclusive or preferential use of
30 a highway facility may be declared to be effective at all times or at
31 specified times of day or on specified days. Violation of a
32 restriction of highway usage prescribed by the appropriate authority
33 under this section is a traffic infraction.

34 (5) Local authorities are encouraged to establish a process for
35 private transportation providers, as described under subsections (1)
36 and (3) of this section, to apply for the use of public transportation
37 facilities reserved for the exclusive or preferential use of public
38 transportation vehicles. The application and review processes should

1 be uniform and should provide for an expeditious response by the local
2 authority. Whenever practicable, local authorities should enter into
3 agreements with such private transportation providers to allow for the
4 reasonable use of these facilities.

5 (6) For the purposes of this section, "private employer
6 transportation service" means regularly scheduled, fixed-route
7 transportation service that is similarly marked or identified to
8 display the business name or logo on the driver and passenger sides of
9 the vehicle, meets the annual certification requirements of the
10 department of transportation, and is offered by an employer for the
11 benefit of its employees.

12 **Sec. 2.** RCW 47.04.290 and 2008 c 257 s 1 are each amended to read
13 as follows:

14 (1) Any local transit agency that has received state funding for a
15 park and ride lot shall make reasonable accommodation for use of that
16 lot by: Auto transportation companies regulated under chapter 81.68
17 RCW (~~and~~); passenger charter carriers regulated under chapter 81.70
18 RCW, except marked or unmarked stretch limousines and stretch sport
19 utility vehicles as defined under department of licensing rules;
20 private, nonprofit transportation providers regulated under chapter
21 81.66 RCW(~~, that intend to provide or already provide regularly~~
22 ~~scheduled service at that lot~~); and private employer transportation
23 service vehicles, provided that such use does not interfere with the
24 efficiency, reliability, and safety of public transportation
25 operations. The accommodation must be in the form of an agreement
26 between the applicable local transit agency and the private (~~transit~~)
27 transportation provider (~~(regulated under chapter 81.68 or 81.66 RCW)~~).
28 The transit agency may require that the agreement include provisions to
29 recover actual costs and fair market value for the use of the lot and
30 its related facilities and to provide adequate insurance and
31 indemnification of the transit agency, and other reasonable provisions
32 to ensure that the private (~~transit~~) transportation provider's use
33 does not unduly burden the transit agency. The transit agency may
34 consider benefits to its public transportation system when establishing
35 an amount to charge for the use of the park and ride lot and its
36 related facilities. If the agreement includes provisions to recover
37 actual costs, the private transportation provider is responsible to

1 remit the full actual costs of park and ride lot use to the appropriate
2 transit agency. No accommodation is required, and any agreement may be
3 terminated, if the park and ride lot is at or exceeds ninety percent
4 capacity between the hours of 6:00 a.m. and 4:00 p.m., Monday through
5 Friday for two consecutive months. Additionally, any agreement may be
6 terminated if the private transportation provider violates any policies
7 guiding the terms of use of the park and ride lot. The transit agency
8 may reserve the authority to designate which pick-up and drop-off zones
9 of the park and ride lot may be used by the private transportation
10 provider.

11 (2) A local transit agency described under subsection (1) of this
12 section may enter into a cooperative agreement with a taxicab company
13 regulated under chapter 81.72 RCW in order to accommodate the taxicab
14 company at the agency's park and ride lot, provided the taxicab company
15 must agree to provide service with reasonable availability, subject to
16 schedule coordination provisions as agreed to by the parties.

17 (3) For the purposes of this section, "private employer
18 transportation service" means regularly scheduled, fixed-route
19 transportation service that is similarly marked or identified to
20 display the business name or logo on the driver and passenger sides of
21 the vehicle, meets the annual certification requirements of the
22 department, and is offered by an employer for the benefit of its
23 employees.

24 (4) For the purposes of this section, "private transportation
25 provider" means:

26 (a) A company regulated under chapter 81.68 RCW; chapter 81.70 RCW,
27 except marked or unmarked stretch limousines and stretch sport utility
28 vehicles as defined under department of licensing rules; and chapter
29 81.66 RCW; and

30 (b) An entity providing private employer transportation service.

31 (5)(a) Local authorities are encouraged to establish a process for
32 private transportation providers, described under subsections (1) and
33 (4) of this section, to apply for the use of park and ride facilities.

34 (b) The process must provide a list of facilities that the local
35 authority determines to be unavailable for use by the private
36 transportation provider and must provide the criteria used to reach
37 that determination.

1 (c) The application and review processes must be uniform and should
2 provide for an expeditious response by the authority.

3 (6) The department must convene a stakeholder process that includes
4 interested public and private transportation providers, which must
5 develop standard permit forms, clear explanations of permit rate
6 calculations, and standard indemnification provisions that may be used
7 by all local authorities.

8 **Sec. 3.** RCW 47.52.025 and 1974 ex.s. c 133 s 1 are each amended to
9 read as follows:

10 (1) Highway authorities of the state, counties, and incorporated
11 cities and towns, in addition to the specific powers granted in this
12 chapter, shall also have, and may exercise, relative to limited access
13 facilities, any and all additional authority, now or hereafter vested
14 in them relative to highways or streets within their respective
15 jurisdictions, and may regulate, restrict, or prohibit the use of such
16 limited access facilities by various classes of vehicles or traffic.
17 Such highway authorities may reserve any limited access facility or
18 portions thereof, including designated lanes or ramps for the exclusive
19 or preferential use of (a) public transportation vehicles, (b)
20 privately owned buses, (~~(c)~~) (c) private motor vehicles carrying not
21 less than a specified number of passengers, or (d) the following
22 private transportation provider vehicles if the vehicle has the
23 capacity to carry eight or more passengers, regardless of the number of
24 passengers in the vehicle, and if such use does not interfere with the
25 efficiency, reliability, and safety of public transportation
26 operations: (i) Auto transportation company vehicles regulated under
27 chapter 81.68 RCW; (ii) passenger charter carrier vehicles regulated
28 under chapter 81.70 RCW, except marked or unmarked stretch limousines
29 and stretch sport utility vehicles as defined under department of
30 licensing rules; (iii) private nonprofit transportation provider
31 vehicles regulated under chapter 81.66 RCW; and (iv) private employer
32 transportation service vehicles, when such limitation will increase the
33 efficient utilization of the highway facility or will aid in the
34 conservation of energy resources. Regulations authorizing such
35 exclusive or preferential use of a highway facility may be declared to
36 be effective at all time or at specified times of day or on specified
37 days.

1 (2) Any transit-only lanes that allow other vehicles to access
2 abutting businesses that are reserved pursuant to subsection (1) of
3 this section may not be authorized for the use of private
4 transportation provider vehicles as described under subsection (1) of
5 this section.

6 (3) Highway authorities of the state, counties, or incorporated
7 cities and towns may prohibit the use of limited access facilities by
8 the following private transportation provider vehicles: (a) Auto
9 transportation company vehicles regulated under chapter 81.68 RCW; (b)
10 passenger charter carrier vehicles regulated under chapter 81.70 RCW,
11 and marked or unmarked limousines and stretch sport utility vehicles as
12 defined under department of licensing rules; (c) private nonprofit
13 transportation provider vehicles regulated under chapter 81.66 RCW; and
14 (d) private employer transportation service vehicles, when the average
15 transit speed in the high occupancy vehicle travel lane fails to meet
16 department standards and falls below forty-five miles per hour at least
17 ninety percent of the time during the peak hours for two consecutive
18 months.

19 (4)(a) Local authorities are encouraged to establish a process for
20 private transportation providers, described under subsections (1) and
21 (3) of this section, to apply for the use of limited access facilities
22 that are reserved for the exclusive or preferential use of public
23 transportation vehicles.

24 (b) The process must provide a list of facilities that the local
25 authority determines to be unavailable for use by the private
26 transportation provider and must provide the criteria used to reach
27 that determination.

28 (c) The application and review processes must be uniform and should
29 provide for an expeditious response by the authority.

30 (5) For the purposes of this section, "private employer
31 transportation service" means regularly scheduled, fixed-route
32 transportation service that is similarly marked or identified to
33 display the business name or logo on the driver and passenger sides of
34 the vehicle, meets the annual certification requirements of the
35 department, and is offered by an employer for the benefit of its
36 employees.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 47.04 RCW
2 to read as follows:

3 When designing portions of a highway that are intended to be used
4 as portions reserved for the exclusive or preferential use of public
5 transportation vehicles, state and local jurisdictions shall consider
6 whether the design will safely accommodate private transportation
7 provider vehicles that may be authorized to use the reserved portions
8 under RCW 46.61.165 and 47.52.025 without interfering with the
9 efficiency, reliability, and safety of public transportation
10 operations.

11 NEW SECTION. **Sec. 5.** If any part of this act is found to be in
12 conflict with mitigation requirements under the state environmental
13 policy act (chapter 43.21C RCW) or the national environmental policy
14 act (42 U.S.C. Secs. 4321 through 4347) or in any other way conflicts
15 with federal requirements that are a condition or part of the
16 allocation of federal funds to the state or local facilities, the
17 conflicting part of this act is inoperative solely to the extent of the
18 conflict and with respect to the agencies directly affected, and this
19 finding does not affect the operation of the remainder of this act in
20 its application to the agencies concerned. Rules adopted under this
21 act must meet federal requirements that are a necessary condition to
22 the receipt of federal funds by the state or local authorities.

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