

RCW 46.72B.180 Insurance that covers commercial transportation services—Requirements—Terms of coverage. (1) (a) Before being used to provide commercial transportation services, as defined in RCW 48.177.005, every personal vehicle, as defined in RCW 48.177.005, must be covered by a primary automobile insurance policy that specifically covers commercial transportation services. However, the insurance coverage requirements of this section are alternatively satisfied by securing coverage pursuant to chapter 46.72 or 46.72A RCW that covers the personal vehicle being used to provide commercial transportation services and that is in effect twenty-four hours per day, seven days per week. Except as provided in subsection (2) of this section, a commercial transportation services provider, as defined in RCW 48.177.005, must secure this policy for every personal vehicle used to provide commercial transportation services. For purposes of this section, a "primary automobile insurance policy" is not a private passenger automobile insurance policy.

(b) The primary automobile insurance policy required under this section must provide coverage, as specified in this subsection (1) (b), at all times the driver is logged in to a commercial transportation services provider's digital network or software application and at all times a passenger is in the vehicle as part of a prearranged ride.

(i) The primary automobile insurance policy required under this subsection must provide the following coverage during commercial transportation services applicable during the period before a driver accepts a requested ride through a digital network or software application:

(A) Liability coverage in an amount no less than fifty thousand dollars per person for bodily injury, one hundred thousand dollars per accident for bodily injury of all persons, and thirty thousand dollars for damage to property;

(B) Underinsured motorist coverage to the extent required under RCW 48.22.030; and

(C) Personal injury protection coverage to the extent required under RCW 48.22.085 and 48.22.095.

(ii) The primary automobile insurance policy required under this subsection must provide the following coverage, applicable during the period of a prearranged ride:

(A) Combined single limit liability coverage in the amount of one million dollars for death, personal injury, and property damage; and

(B) Personal injury protection coverage to the extent required under RCW 48.22.085 and 48.22.095.

(iii) The primary automobile insurance policy required under this subsection must provide underinsured motorist coverage in the amount of \$100,000 per person, \$300,000 per accident from the moment a passenger enters the transportation network company vehicle of a driver until the passenger exits the transportation network company vehicle.

(2) (a) As an alternative to the provisions of subsection (1) of this section, 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 from a lawful admitted or surplus lines insurer. The policy coverage may be in the form of a rider to, or endorsement of, the driver's private passenger automobile insurance policy only if approved as such by the office of the insurance commissioner.

(b) If the primary automobile insurance policy maintained by a driver to meet the obligation of this section does not provide coverage for any reason, including that the policy lapsed or did not exist, the commercial transportation services provider must provide the coverage required under this section beginning with the first dollar of a claim.

(c) The primary automobile insurance policy required under this subsection and subsection (1) of this section may be secured by any of the following:

(i) The commercial transportation services provider as provided under subsection (1) of this section;

(ii) The driver as provided under (a) of this subsection; or

(iii) A combination of both the commercial transportation services provider and the driver.

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

(4) In addition to the requirements in subsections (1) and (2) of this section, before allowing a person to provide commercial transportation services as a driver, a commercial transportation services provider must provide written proof to the driver that the driver is covered by a primary automobile insurance policy that meets the requirements of this section. Alternatively, if a driver purchases a primary automobile insurance policy as allowed under subsection (2) of this section, the commercial transportation services provider must verify that the driver has done so.

(5) A primary automobile insurance policy required under subsection (1) or (2) of this section may be placed with an insurer licensed under this title to provide insurance in the state of Washington or as an eligible surplus line insurance policy as described in RCW 48.15.040, or through a surplus lines insurer that meets the financial requirements as described in RCW 48.15.090 and follows the procurement procedures of RCW 48.15.040.

(6) Insurers that write automobile insurance in Washington may exclude any and all coverage afforded under a private passenger automobile insurance policy issued to an owner or operator of a personal vehicle for any loss or injury that occurs while a driver for a commercial transportation services provider is logged in to a commercial transportation services provider's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage included in a private passenger automobile insurance policy including, but not limited to:

(a) Liability coverage for bodily injury and property damage;

(b) Personal injury protection coverage;

(c) Underinsured motorist coverage;

(d) Medical payments coverage;

(e) Comprehensive physical damage coverage; and

(f) Collision physical damage coverage.

(7) Nothing in this section shall be construed to require a private passenger automobile insurance policy to provide primary or excess coverage or a duty to defend for the period of time in which a driver is logged in to a commercial transportation services provider's digital network or software application or while the driver is engaged in a prearranged ride or the driver otherwise uses a vehicle to transport passengers for compensation.

(8) Insurers that exclude coverage under subsection (6) of this section have no duty to defend or indemnify any claim expressly excluded under subsection (6) of this section. Nothing in this section shall be deemed to invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use in Washington state before July 24, 2015, that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public.

(9) An exclusion exercised by an insurer in subsection (6) of this section applies to any coverage selected or rejected by a named insured under RCW 48.22.030 and 48.22.085. The purchase of a rider or endorsement by a driver under subsection (2)(a) of this section does not require a separate coverage rejection under RCW 48.22.030 or 48.22.085.

(10) 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) Except as provided otherwise under subsection (2)(c) of this section, 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 commercial transportation services provider that matched the driver and passenger must provide insurance coverage; or

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

(11) In an accident or claims coverage investigation, a commercial transportation services provider or its insurer must cooperate with a private passenger automobile insurance policy insurer and other insurers that are involved in the claims coverage investigation to facilitate the exchange of information, including the provision of (a) dates and times at which an accident occurred that involved a participating driver and (b) within ten business days after receiving a request, a copy of the provider's electronic record showing the precise times that the participating driver logged on and off the provider's digital network or software application on the day the accident or other loss occurred. The commercial transportation services provider or its insurer must retain all data, communications, or documents related to insurance coverage or accident details for a period of not less than the applicable statutes of limitation, plus two years from the date of an accident to which those records pertain.

(12) This section does not modify or abrogate any otherwise applicable insurance requirement set forth in this title.

(13) After July 1, 2016, an insurance company regulated under this title 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 commercial transportation services.

(14) If an insurer for a commercial transportation services provider makes a payment for a claim covered under comprehensive coverage or collision coverage, the commercial transportation services provider must cause its 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.

(15)(a) To be eligible for securing a primary automobile insurance policy under this section, a commercial transportation services provider must make the following disclosures to a prospective driver in the prospective driver's terms of service:

WHILE OPERATING ON THE DIGITAL NETWORK OR SOFTWARE APPLICATION OF THE COMMERCIAL TRANSPORTATION SERVICES PROVIDER, 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 COMMERCIAL TRANSPORTATION SERVICES FOR OUR COMPANY HAS A LIEN AGAINST IT, YOU MUST NOTIFY THE LIENHOLDER THAT YOU WILL BE USING THE VEHICLE FOR COMMERCIAL TRANSPORTATION SERVICES 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. [2022 c 281 § 33; 2015 c 236 § 2. Formerly RCW 48.177.010.]