

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Amending

WAC 480-30

Relating to Passenger Transportation  
Companies

DOCKET TC-161262

GENERAL ORDER R-590

ORDER REPEALING, AMENDING,  
AND ADOPTING RULES  
PERMANENTLY

- 1     **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission (Commission) takes this action under Notice WSR # 17-12-053, filed with the Code Reviser on June 2, 2017. The Commission brings this proceeding pursuant to RCW 80.01.040, RCW 80.04.160, RCW 81.68,030, and 81.70.270.
- 2     **STATEMENT OF COMPLIANCE:** This proceeding complies with the Administrative Procedure Act (RCW 34.05), the State Register Act (RCW 34.08), the State Environmental Policy Act of 1971 (RCW 43.21C), and the Regulatory Fairness Act (RCW 19.85).
- 3     **DATE OF ADOPTION:** The Commission adopts this rule on the date this Order is entered.
- 4     **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW 34.05.325(6) requires the Commission to prepare and publish a concise explanatory statement about an adopted rule. The statement must identify the Commission’s reasons for adopting the rule, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the Commission’s responses to the comments reflecting the Commission’s consideration of them.

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: July 31, 2017**

**TIME: 8:52 AM**

**WSR 17-16-114**

5 To avoid unnecessary duplication in the record of this docket, the Commission designates the discussion in this Order, including appendices, as its concise explanatory statement, supplemented where not inconsistent by the staff memoranda preceding the filing of the CR-102 proposal and the adoption hearing. Together, these documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions.

6 **REFERENCE TO AFFECTED RULES:** This Order amends, adopts, and repeals the following sections of the Washington Administrative Code:

Adopt	WAC 480-30-022	Contractors.
Amend	WAC 480-30-036	Definitions, general.
Amend	WAC 480-30-056	Records retention, auto transportation company.
Repeal	WAC 480-30-061	Express freight, property transportation.
Amend	WAC 480-30-141	Transferring or encumbering all or part of a passenger transportation company's certificate or authority.
Amend	WAC 480-30-166	Agreements between auto transportation companies to provide service.
Amend	WAC 480-30-171	Certificates, suspending and canceling.
Amend	WAC 480-30-191	Bodily injury and property damage liability insurance.
Repeal	WAC 480-30-206	Vehicle licensing.
Repeal	WAC 480-30-211	Commercial vehicle defined.
Repeal	WAC 480-30-213	Vehicles and drivers.
Amend	WAC 480-30-216	Operation of motor vehicles, general.
Amend	WAC 480-30-221	Vehicle and driver safety requirements.
Adopt	WAC 480-30-222	Vehicles with capacity for seven or fewer passengers (including the driver).
Amend	WAC 480-30-226	Intrastate medical waivers.
Amend	WAC 480-30-231	Vehicle and driver identification.
Amend	WAC 480-30-236	Leasing vehicles.
Amend	WAC 480-30-244	Liquor permit required.
Amend	WAC 480-30-286	Tariffs and time schedules, posting.
Amend	WAC 480-30-316	Tariffs and time schedules, customer notice requirements.
Amend	WAC 480-30-365	Tariffs and time schedules, tariff rules.
Amend	WAC 480-30-396	Tariffs and time schedules, free and reduced rates.

Adopt WAC 480-30-450 Nondiscrimination.  
Amend WAC 480-30-456 Fair use of customer information.

7 **PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER:**  
The Commission filed a Preproposal Statement of Inquiry (CR-101) on December 19, 2016, at WSR # 17-01-101.

8 The statement advised interested persons that the Commission was considering entering a rulemaking to consider whether to amend WAC 480-30 to remove barriers to the ability of auto transportation companies to compete with other regulated and unregulated passenger transportation providers while continuing to safeguard public health and safety. The Commission also informed persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the Commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notice to all registered auto transportation companies, all registered auto excursion companies, all registered charter companies, and the Commission's list of transportation attorneys. Pursuant to the notice, the Commission received comments on January 27, 2017, and held a stakeholder workshop on March 2, 2017.

9 **SUBSEQUENT COMMENTS AND WORKSHOPS:** The commission received additional comments on the rules that are the subject of this order on or about April 28, 2017, and held an additional workshop on these rules on May 11, 2017.

10 **SMALL BUSINESS ECONOMIC IMPACT ANALYSIS:** On March 31, 2017, the Commission mailed a notice to all stakeholders interested in this rulemaking, providing a copy of the draft rules and an opportunity to respond to a Small Business Economic Impact Statement (SBEIS) Questionnaire. The notice requested that regulated companies provide information about possible cost impacts of the draft rules with specific information for each rule that the company identified as causing an impact. Only one company responded to the questionnaire, and the Commission's analysis indicated that the proposed rule changes would not impose more than minor costs on passenger transportation companies, but rather are more likely to reduce costs for all passenger transportation companies. The Commission produced an SBEIS, which was filed with the CR-102.

11 **NOTICE OF PROPOSED RULEMAKING:** The Commission filed a notice of Proposed Rulemaking (CR-102) on June 2, 2017 at WSR #17-12-053. The Commission scheduled this matter for oral comment and adoption under Notice WSR #17-12-053 at 1 p.m., Thursday, July 20, 2017, in the Commission's Hearing Room, Second Floor,

Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The Notice provided interested persons the opportunity to submit written comments to the Commission.

- 12 **WRITTEN COMMENTS:** The Commission received written comments on the proposed rules on July 5, 2017. Summaries of written comments and Commission responses are contained in Appendix A, attached to, and made part of, this Order.
- 13 **RULEMAKING HEARING:** The Commission considered the proposed rules for adoption at a rulemaking hearing on Thursday, July 20, 2017, before Chairman David W. Danner. Commissioner Ann E. Rendahl and Commissioner Jay M. Balasbas appeared telephonically. The Commission heard oral comments from Chris Rose, Senior Policy Advisor, representing commission staff (Staff), Wesley Marks from Shuttle Express, and James Fricke from Capitol Aeroporter, all of whom spoke in support of the proposed rules.
- 14 **SUGGESTED CHANGES:** Written comments on the proposed rules suggested a few changes. Staff summarized the suggestions and recommended reasons for rejecting them in a chart attached to this order as Appendix A. The Commission adopts that summary and Staff's recommendations.
- 15 **DISCUSSION OF PROPOSED RULES.** Passenger transportation to and from SeaTac International Airport has long been a competitive market. Consumers have many choices, including buses, light rail, taxis, limousines, and driving their own vehicles, in addition to the auto transportation services the Commission regulates. Transportation Network Companies (TNCs) like Uber and Lyft have also recently entered this market, creating even greater pressure on regulated companies to offer more efficient service that keeps pace with technological developments and corresponding customer demand.
- 16 We initiated this rulemaking to examine the extent to which existing Commission rules unnecessarily inhibit auto transportation companies' ability to compete effectively. Our primary focus was on the requirement that these companies use their own vehicles and employees to provide service. TNCs use a different model, relying on a network of individuals the companies maintain are acting as independent contractors who use their own vehicles. TNCs' nascent, rapid success in the market has shed new light on a long-standing regulatory paradigm. At the same time, however, the Commission remains focused on safety and consumer protection as two of its primary obligations. Regardless of a regulated company's business model, the service it provides must be safe for its customers and the traveling public.

- 17 The proposed rules appropriately balance those concerns. The rules would allow regulated companies to use independent contractor vehicles and drivers to provide auto transportation service. The regulated companies, however, would continue to be responsible for compliance with appropriate safety and consumer protection standards, regardless of whether the company or a contractor physically provisions the service. The proposed rules also better tailor those standards to the smaller capacity vehicles some companies increasingly are using, as well as streamline company record-keeping obligations to reduce duplication and recognize consumers' increased access to information in a digital format.
- 18 We appreciate Staff's work in consultation with stakeholders to develop and draft rules to implement this approach. We recognize that the revised rules will present new challenges to Staff and industry alike to ensure that independent contractors operating on behalf of regulated companies adhere to Commission safety and consumer protection requirements. As markets evolve, however, so must Commission regulation, and we have every confidence that Staff will continue to fulfill its role of safeguarding the public interest in changing circumstances.
- 19 This rulemaking is part of our ongoing efforts to ensure that Commission rules properly reflect the industries and companies we regulate and the markets in which they operate. Accordingly, we will leave this rulemaking open to consider additional revisions to rules that may no longer be necessary or useful in today's environment.
- 20 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the Commission finds and concludes that it should amend, repeal, and adopt the rules as proposed in the CR-102 at WSR # 17-12-053.
- 21 **CHANGES FROM PROPOSAL:** The Commission adopts the proposal with the following changes from the text noticed at WSR #17-12-053: In the definition of "commercial motor vehicle" in WAC 480-30-036, replace the period after "driver" at the end in subpart (c) with "; or".
- 22 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the Commission determines that the sections in WAC 480-30 listed in paragraph 6 above should be amended, repealed, or adopted as applicable to read as set forth in Appendix B, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the Code Reviser.

**ORDER**

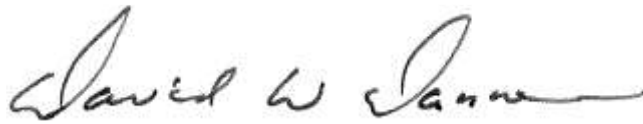
23 **THE COMMISSION ORDERS:**

24 The Commission amends WAC 480-30 to read as set forth in Appendix B, as rules of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the Code Reviser pursuant to RCW 34.05.380(2).

25 This Order and the rule set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the Code Reviser for filing pursuant to RCW 80.01 and RCW 34.05 and WAC 1-21.

DATED at Olympia, Washington, July 31, 2017.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION



DAVID W. DANNER, Chairman



ANN E. RENDAHL, Commissioner



JAY M. BALASBAS, Commissioner

*Note: The following is added at Code Reviser request for statistical purposes:*

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 3, amended 17, repealed 4.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 3, amended 17, repealed 4.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.