

---

SENATE BILL 5875

---

State of Washington

57th Legislature

2001 Regular Session

By Senators T. Sheldon and Stevens; by request of Department of Social and Health Services

Read first time 02/06/2001. Referred to Committee on Economic Development & Telecommunications.

1 AN ACT Relating to telecommunications devices and services for the  
2 hearing or speech impaired; and amending RCW 43.20A.720 and 43.20A.725.

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

4 **Sec. 1.** RCW 43.20A.720 and 1992 c 144 s 2 are each amended to read  
5 as follows:

6 (~~"Hearing impaired" means those persons who are certified to be~~  
7 ~~deaf, deaf-blind, or hard of hearing, and those persons who are~~  
8 ~~certified to have a hearing disability limiting their access to~~  
9 ~~telecommunications.~~

10 ~~"Speech impaired" means persons who are certified to be unable to~~  
11 ~~speak or who are certified to have a speech impairment limiting their~~  
12 ~~access to telecommunications.~~

13 ~~"Text telephone (TT)," formerly known as a telecommunications~~  
14 ~~device for the deaf (TDD) means a telecommunications device that has a~~  
15 ~~typewriter or computer keyboard and a readable display that couples~~  
16 ~~with the telephone, allowing messages to be typed rather than spoken.~~  
17 ~~The device allows a person to make a telephone call directly to another~~  
18 ~~person possessing similar equipment. The conversation is typed through~~  
19 ~~one machine to the other machine instead of spoken.~~

1       ~~"Telecommunications relay service (TRS)" is a service for hearing~~  
2 ~~and speech impaired people who have a TT to call someone who does not~~  
3 ~~have a TT or vice versa. The service consists of several telephones~~  
4 ~~being utilized by TRS communications assistants who receive either TT~~  
5 ~~or voice phone calls. If a TRS communications assistant receives a~~  
6 ~~phone call from a hearing or speech impaired person wishing to call a~~  
7 ~~hearing person, the operator will call the hearing person and act as an~~  
8 ~~intermediary by translating what is displayed on the TT to voice and~~  
9 ~~typing what is voiced into the TT to be read by the hearing or speech~~  
10 ~~impaired caller. This process can also be reversed with a hearing~~  
11 ~~person calling a deaf person through the telecommunications relay~~  
12 ~~service. "TRS program" as used in this chapter includes both the relay~~  
13 ~~function and TTs.~~

14       ~~"Qualified trainer" is a person who is knowledgeable about TTs,~~  
15 ~~signal devices, and amplifying accessories; familiar with the technical~~  
16 ~~aspects of equipment designed to meet hearing impaired people's needs;~~  
17 ~~and is fluent in American sign language.~~

18       ~~"Qualified contractor" shall have staff bilingual in American sign~~  
19 ~~language and standard English available for quality language/cultural~~  
20 ~~interpretations; quality training of operators; and policies, training,~~  
21 ~~and operational procedures to be determined by the office.~~

22       ~~"The department" means the department of social and health services~~  
23 ~~of the state of Washington.)) Unless the context clearly requires~~  
24 ~~otherwise, the definitions in this section apply throughout this~~  
25 ~~section and RCW 43.20A.725.~~

26       ~~(1) "Department" means the department of social and health~~  
27 ~~services.~~

28       ~~(2) "Office" means the office of the deaf ((services)) and hard of~~  
29 ~~hearing within the state department of social and health services.~~

30       **Sec. 2.** ~~RCW 43.20A.725 and 1998 c 245 s 59 are each amended to~~  
31 ~~read as follows:~~

32       ~~((1) The department shall maintain a program whereby TTs, signal~~  
33 ~~devices, and amplifying accessories capable of serving the needs of the~~  
34 ~~hearing and speech impaired shall be provided under the standards~~  
35 ~~established in subsection (10) of this section to an individual of~~  
36 ~~school age or older:~~

37       ~~(a) Who is certified as hearing impaired by a licensed physician,~~  
38 ~~audiologist, or a qualified state agency, and to any subscriber that is~~

1 an organization representing the hearing impaired, as determined and  
2 specified by the TRS program advisory committee; or

3 (b) Who is certified as speech impaired by a licensed physician,  
4 speech pathologist, or a qualified state agency, and to any subscriber  
5 that is an organization representing the speech impaired, as determined  
6 and specified by the TRS program advisory committee.

7 For the purpose of this section, certification implies that  
8 individuals cannot use the telephone for expressive or receptive  
9 communications due to hearing or speech impairment.

10 (2) The office shall award contracts on a competitive basis, to  
11 qualified persons for which eligibility to contract is determined by  
12 the office, for the distribution and maintenance of such TTs, signal  
13 devices, and amplifying accessories as shall be determined by the  
14 office. When awarding such contracts, the office may consider the  
15 quality of equipment and, with the director's approval, may award  
16 contracts on a basis other than cost. Such contracts may include a  
17 provision for the employment and use of a qualified trainer and the  
18 training of recipients in the use of such devices.

19 (3) The office shall establish and implement a policy for the  
20 ultimate responsibility for recovery of TTs, signal devices, and  
21 amplifying accessories from recipients who have been provided with the  
22 equipment without cost and who are moving from this state or who for  
23 other reasons are no longer using them.

24 (4) Pursuant to recommendations of the TRS program advisory  
25 committee, until July 26, 1993, the office shall maintain a program  
26 whereby a relay system will be provided state wide using operator  
27 intervention to connect hearing impaired and speech impaired persons  
28 and offices or organizations representing the hearing impaired and  
29 speech impaired, as determined and specified by the TDD advisory  
30 committee pursuant to RCW 43.20A.730. The relay system shall be the  
31 most cost effective possible and shall operate in a manner consistent  
32 with federal requirements for such systems.

33 (5) Pursuant to the recommendations of the TDD task force report of  
34 December 1991, and with the express purpose of maintaining state  
35 control and jurisdiction, the office shall seek certification by the  
36 federal communications commission of the state wide relay service.

37 (6) The office shall award contracts for the operation and  
38 maintenance of the state wide relay service. The initial contract  
39 shall be for service commencing on or before July 26, 1993. The

1 contract shall be awarded to an individual company registered as a  
2 telecommunications company by the utilities and transportation  
3 commission, to a group of registered telecommunications companies, or  
4 to any other company or organization determined by the office as  
5 qualified to provide relay services, contingent upon that company or  
6 organization being approved as a registered telecommunications company  
7 prior to final contract approval.

8 (7) The program shall be funded by a telecommunications relay  
9 service (TRS) excise tax applied to each switched access line provided  
10 by the local exchange companies. The office shall determine, in  
11 consultation with the TRS program advisory committee, the budget needed  
12 to fund the program on an annual basis, including both operational  
13 costs and a reasonable amount for capital improvements such as  
14 equipment upgrade and replacement. The budget proposed by the office,  
15 together with documentation and supporting materials, shall be  
16 submitted to the office of financial management for review and  
17 approval. The approved budget shall be given by the department in an  
18 annual budget to the utilities and transportation commission no later  
19 than March 1 prior to the beginning of the fiscal year. The utilities  
20 and transportation commission shall then determine the amount of TRS  
21 excise tax to be placed on each access line and shall inform each local  
22 exchange company of this amount no later than May 15. The utilities  
23 and transportation commission shall determine the amount of TRS excise  
24 tax by dividing the total of the program budget, as submitted by the  
25 office, by the total number of access lines, and shall not exercise any  
26 further oversight of the program under this subsection. The TRS excise  
27 tax shall not exceed nineteen cents per month per access line. Each  
28 local exchange company shall impose the amount of excise tax determined  
29 by the commission as of July 1, and shall remit the amount collected  
30 directly to the department on a monthly basis. The TRS excise tax  
31 shall be separately identified on each ratepayer's bill with the  
32 following statement: "Funds federal ADA requirement." All proceeds  
33 from the TRS excise tax shall be put into a fund to be administered by  
34 the office through the department.

35 (8) The office shall administer and control the award of money to  
36 all parties incurring costs in implementing and maintaining  
37 telecommunications services, programs, equipment, and technical support  
38 services in accordance with the provisions of RCW 43.20A.725.

1       ~~(9) The program shall be consistent with the requirements of~~  
2 ~~federal law for the operation of both interstate and intrastate~~  
3 ~~telecommunications services for the deaf or hearing impaired or speech~~  
4 ~~impaired. The department and the utilities and transportation~~  
5 ~~commission shall be responsible for ensuring compliance with federal~~  
6 ~~requirements and shall provide timely notice to the legislature of any~~  
7 ~~legislation that may be required to accomplish compliance.~~

8       ~~(10)(a) The department shall provide TTs, signal devices, and~~  
9 ~~amplifying accessories to a person eligible under subsection (1) of~~  
10 ~~this section at no charge in addition to the basic exchange rate if:~~

11       ~~(i) The person is eligible for participation in the Washington~~  
12 ~~telephone assistance program under RCW 80.36.470;~~

13       ~~(ii) The person's annual family income is equal to or less than one~~  
14 ~~hundred sixty five percent of the federal poverty level; or~~

15       ~~(iii) The person is a child eighteen years of age or younger with~~  
16 ~~a family income less than or equal to two hundred percent of the~~  
17 ~~federal poverty level.~~

18       ~~(b) A person eligible under subsection (1) of this section with a~~  
19 ~~family income greater than one hundred sixty five percent and less than~~  
20 ~~or equal to two hundred percent of the federal poverty level shall be~~  
21 ~~assessed a charge for the cost of TTs, signal devices, and amplifying~~  
22 ~~accessories based on a sliding scale of charges established by rule~~  
23 ~~adopted by the department.~~

24       ~~(c) The department shall charge a person eligible under subsection~~  
25 ~~(1) of this section whose income exceeds two hundred percent of the~~  
26 ~~federal poverty level the cost to the department of purchasing the~~  
27 ~~equipment provided to that person.~~

28       ~~(d) The department may waive part or all of the charges assessed~~  
29 ~~under this subsection if the department finds that (i) the eligible~~  
30 ~~person requires telebraille equipment or other equipment of similar~~  
31 ~~cost and (ii) the charges normally assessed for the equipment under~~  
32 ~~this subsection would create an exceptional or undue hardship on the~~  
33 ~~eligible person.~~

34       ~~(e) For the purposes of this subsection, certification of family~~  
35 ~~income by the eligible person or the person's guardian or head of~~  
36 ~~household is sufficient to determine eligibility.))~~     (1)(a) The  
37 department, through the sole authority of the office of the deaf and  
38 hard of hearing or its successor organization, shall maintain a program  
39 whereby an individual of school age or older who possesses a hearing or

1 speech impairment is provided with telecommunications equipment,  
2 software, and/or peripheral devices, digital or otherwise, that is  
3 determined by the office to be necessary for such a person to  
4 effectively access and use telecommunications transmission services.

5 (b) The department shall adopt rules establishing eligibility  
6 criteria, ownership obligations, financial contribution, and a program  
7 for distribution to individuals requesting and receiving such  
8 telecommunications devices distributed by the office, in addition to  
9 other rules necessary to administer programs and services consistent  
10 with this chapter.

11 (2) The department, through the sole authority of the office of the  
12 deaf and hard of hearing or its successor organization, shall maintain  
13 a program whereby telecommunications relay services of a human or  
14 electronic nature will be provided to connect hearing impaired, deaf-  
15 blind, and speech impaired persons with persons who do not have a  
16 hearing or speech impairment. Such telecommunications relay services  
17 shall provide the ability for an individual who has a hearing or speech  
18 impairment to engage in voice, tactile, or visual communication by wire  
19 or radio with a hearing individual in a manner that is functionally  
20 equivalent to the ability of an individual who does not have a hearing  
21 or speech impairment to communicate using voice or visual communication  
22 services by wire or radio, subject to subsection (4)(c) of this  
23 section.

24 (3) The telecommunications relay service and equipment distribution  
25 program shall be allowed to operate in such a manner as to provide  
26 communications transmission opportunities that are capable of  
27 incorporating new technologies that have demonstrated benefits  
28 consistent with the intent of this chapter and are in the best  
29 interests of the citizens of this state.

30 (4)(a) The office shall administer and control the award of money  
31 to all parties incurring costs in implementing and maintaining  
32 telecommunications services, programs, equipment, and technical support  
33 services in accordance with this section. The relay service contract  
34 shall be awarded to an individual company registered as a  
35 telecommunications company by the utilities and transportation  
36 commission, to a group of registered telecommunications companies, or  
37 to any other company or organization determined by the office as  
38 qualified to provide relay services, contingent upon that company or  
39 organizations being approved as a registered telecommunications company

1 before final contract approval. The relay system providers and  
2 telecommunications equipment vendors shall be selected on the basis of  
3 cost-effectiveness and utility to the greatest extent possible under  
4 the program and technical specifications established by the office.

5 (b) To the extent funds are available under the then-current rate  
6 and not otherwise held in reserve or required for other purposes  
7 authorized by this chapter, the office may award contracts for  
8 communications and related services and equipment for hearing impaired  
9 or speech impaired individuals accessing or receiving services provided  
10 by, or contracted for, the department to meet access obligations under  
11 Title 2 of the federal Americans with disabilities act or related  
12 federal regulations.

13 (c) The office shall perform its duties under this section with the  
14 goal of achieving functional equivalency of access to and use of  
15 telecommunications services similar to the enjoyment of access to and  
16 use of such services experienced by an individual who does not have a  
17 hearing or speech impairment only to the extent that funds are  
18 available under the then-current rate and not otherwise held in reserve  
19 or required for other purposes authorized by this chapter.

20 (5) The relay service program and equipment vendors shall provide  
21 services and equipment consistent with the requirements of federal law  
22 for the operation of both interstate and intrastate telecommunications  
23 services for the hearing impaired or speech impaired. The department  
24 and the utilities and transportation commission are responsible for  
25 ensuring compliance with federal requirements and shall provide timely  
26 notice to the legislature of any legislation that may be required to  
27 accomplish compliance.

28 (6) The program shall be funded by a telecommunications relay  
29 service excise tax applied to each switched access line provided by the  
30 local exchange and wireless companies. The office shall determine, in  
31 consultation with the office's program advisory committee, the budget  
32 needed to fund the program on an annual basis, including both  
33 operational costs and a reasonable amount for capital improvements such  
34 as equipment upgrades and replacement. The budget proposed by the  
35 office, together with documentation and supporting materials, shall be  
36 submitted to the office of financial management for review and  
37 approval. The approved budget shall be given by the department in an  
38 annual budget to the utilities and transportation commission no later  
39 than March 1st before the beginning of the fiscal year. The utilities

1 and transportation commission shall then determine the amount of  
2 telecommunications relay service excise tax to be placed on each access  
3 line and shall inform each local exchange company of this amount no  
4 later than May 15th. The utilities and transportation commission shall  
5 determine the amount of telecommunications relay service excise tax by  
6 dividing the total of the program budget, as submitted by the office,  
7 by the total number of access lines, and shall not exercise any further  
8 oversight of the program under this subsection. The telecommunications  
9 relay service excise tax shall not exceed nineteen cents per month per  
10 access line. Each local exchange company shall impose the amount of  
11 excise tax determined by the commission as of July 1st, and shall remit  
12 the amount collected directly to the department on a monthly basis.  
13 The telecommunications relay service excise tax shall be separately  
14 identified on each ratepayer's bill with the following statement:  
15 "Funds federal ADA requirement." All proceeds from the  
16 telecommunications relay service excise tax shall be put into a fund to  
17 be administered by the office through the department.

--- END ---