
SENATE BILL 5105

State of Washington

59th Legislature

2005 Regular Session

By Senators Swecker, Jacobsen, Kastama and Oke; by request of Utilities & Transportation Commission

Read first time 01/13/2005. Referred to Committee on Transportation.

1 AN ACT Relating to certification of entities regulated by the
2 utilities and transportation commission under Title 81 RCW; amending
3 RCW 81.66.060, 81.68.030, 81.68.040, 81.77.030, 81.77.040, and
4 81.84.020; adding a new section to chapter 81.70 RCW; adding a new
5 section to chapter 81.68 RCW; recodifying RCW 81.68.045; and declaring
6 an emergency.

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

8 **Sec. 1.** RCW 81.66.060 and 1979 c 111 s 9 are each amended to read
9 as follows:

10 The commission may, at any time, by its order duly entered after
11 (~~a hearing had upon~~) notice to the holder of any certificate issued
12 under this chapter, and an opportunity (~~to such holder to be heard~~)
13 for a hearing, at which it is proven that the holder has willfully
14 violated or refused to observe any of the commission's proper orders,
15 rules, or regulations, suspend, revoke, alter, or amend any certificate
16 issued under the provisions of this chapter, but the holder of the
17 certificate shall have all the rights of rehearing, review, and appeal
18 as to the order of the commission as is provided for in RCW 81.68.070.

1 **Sec. 2.** RCW 81.68.030 and 1989 c 163 s 4 are each amended to read
2 as follows:

3 The commission is vested with power and authority, and it is its
4 duty to supervise and regulate every auto transportation company in
5 this state as provided in this section. Under this authority, it shall
6 for each auto transportation company:

7 (1) Fix, alter, and amend just, fair, reasonable, and sufficient
8 rates, fares, charges, classifications, rules, and regulations;

9 (2) Regulate the accounts, service, and safety of operations;

10 (3) Require the filing of annual and other reports and of other
11 data;

12 (4) Supervise and regulate the companies in all other matters
13 affecting the relationship between such companies and the traveling and
14 shipping public;

15 (5) By general order or otherwise, prescribe rules and regulations
16 in conformity with this chapter, applicable to any and all such
17 companies, and within such limits make orders.

18 The commission may, at any time, by its order duly entered after
19 ~~((a hearing had upon))~~ notice to the holder of any certificate under
20 this chapter, and an opportunity ~~((to the holder to be heard))~~ for a
21 hearing, at which it shall be proven that the holder willfully violates
22 or refuses to observe any of the commission's proper orders, rules, or
23 regulations, suspend, revoke, alter, or amend any certificate issued
24 under the provisions of this chapter, but the holder of the certificate
25 has all the rights of rehearing, review, and appeal as to the order of
26 the commission as is provided for in RCW 81.68.070.

27 **Sec. 3.** RCW 81.68.040 and 1961 c 14 s 81.68.040 are each amended
28 to read as follows:

29 No auto transportation company shall operate for the transportation
30 of persons, and baggage, mail and express on the vehicles of auto
31 transportation companies carrying passengers, for compensation between
32 fixed termini or over a regular route in this state, without first
33 having obtained from the commission under the provisions of this
34 chapter a certificate declaring that public convenience and necessity
35 require such operation; but a certificate shall be granted when it
36 appears to the satisfaction of the commission that such person, firm or
37 corporation was actually operating in good faith, over the route for

1 which such certificate shall be sought on January 15, 1921. Any right,
2 privilege, certificate held, owned or obtained by an auto
3 transportation company may be sold, assigned, leased, transferred or
4 inherited as other property, only upon authorization by the commission.
5 The commission shall have power, after notice and an opportunity for a
6 hearing, when the applicant requests a certificate to operate in a
7 territory already served by a certificate holder under this chapter,
8 only when the existing auto transportation company or companies serving
9 such territory will not provide the same to the satisfaction of the
10 commission, or when the existing auto transportation company does not
11 object, and in all other cases with or without hearing, to issue said
12 certificate as prayed for; or for good cause shown to refuse to issue
13 same, or to issue it for the partial exercise only of said privilege
14 sought, and may attach to the exercise of the rights granted by said
15 certificate to such terms and conditions as, in its judgment, the
16 public convenience and necessity may require.

17 NEW SECTION. **Sec. 4.** RCW 81.68.045 is recodified as a section in
18 chapter 81.70 RCW.

19 **Sec. 5.** RCW 81.77.030 and 1989 c 431 s 20 are each amended to read
20 as follows:

21 The commission shall supervise and regulate every solid waste
22 collection company in this state,

23 (1) By fixing and altering its rates, charges, classifications,
24 rules and regulations;

25 (2) By regulating the accounts, service, and safety of operations;

26 (3) By requiring the filing of annual and other reports and data;

27 (4) By supervising and regulating such persons or companies in all
28 other matters affecting the relationship between them and the public
29 which they serve;

30 (5) By requiring compliance with local solid waste management plans
31 and related implementation ordinances;

32 (6) By requiring certificate holders under chapter 81.77 RCW to use
33 rate structures and billing systems consistent with the solid waste
34 management priorities set forth under RCW 70.95.010 and the minimum
35 levels of solid waste collection and recycling services pursuant to
36 local comprehensive solid waste management plans. The commission may

1 order consolidated billing and provide for reasonable and necessary
2 expenses to be paid to the administering company if more than one
3 certificate is granted in an area.

4 The commission, on complaint made on its own motion or by an
5 aggrieved party, at any time, after ~~((the holding of a hearing of
6 which))~~ providing the holder of any certificate ~~((has had))~~ with notice
7 and an opportunity ~~((to be heard, and))~~ for a hearing at which it shall
8 be proven that the holder has willfully violated or refused to observe
9 any of the commission's orders, rules, or regulations, or has failed to
10 operate as a solid waste collection company for a period of at least
11 one year preceding the filing of the complaint, may suspend, revoke,
12 alter, or amend any certificate issued under the provisions of this
13 chapter.

14 **Sec. 6.** RCW 81.77.040 and 1989 c 431 s 21 are each amended to read
15 as follows:

16 No solid waste collection company shall hereafter operate for the
17 hauling of solid waste for compensation without first having obtained
18 from the commission a certificate declaring that public convenience and
19 necessity require such operation. A condition of operating a solid
20 waste company in the unincorporated areas of a county shall be
21 complying with the solid waste management plan prepared under chapter
22 70.95 RCW applicable in the company's franchise area.

23 Issuance of the certificate of necessity shall be determined upon,
24 but not limited to, the following factors: The present service and the
25 cost thereof for the contemplated area to be served; an estimate of the
26 cost of the facilities to be utilized in the plant for solid waste
27 collection and disposal, sworn to before a notary public; a statement
28 of the assets on hand of the person, firm, association or corporation
29 which will be expended on the purported plant for solid waste
30 collection and disposal, sworn to before a notary public; a statement
31 of prior experience, if any, in such field by the petitioner, sworn to
32 before a notary public; and sentiment in the community contemplated to
33 be served as to the necessity for such a service.

34 ~~((Except as provided in RCW 81.77.150,))~~ When an applicant requests
35 a certificate to operate in a territory already served by a certificate
36 holder under this chapter, the commission may, after notice and an
37 opportunity for a hearing, issue the certificate only if the existing

1 solid waste collection company or companies serving the territory will
2 not provide service to the satisfaction of the commission or if the
3 existing solid waste collection company does not object.

4 In all other cases, the commission may, with or without hearing,
5 issue certificates, or for good cause shown refuse to issue them, or
6 issue them for the partial exercise only of the privilege sought, and
7 may attach to the exercise of the rights granted such terms and
8 conditions as, in its judgment, the public convenience and necessity
9 may require.

10 Any right, privilege, certificate held, owned, or obtained by a
11 solid waste collection company may be sold, assigned, leased,
12 transferred, or inherited as other property, but only upon
13 authorization by the commission.

14 Any solid waste collection company which upon July 1, 1961 is
15 operating under authority of a common carrier or contract carrier
16 permit issued under the provisions of chapter 81.80 RCW shall be
17 granted a certificate of necessity without hearing upon compliance with
18 the provisions of this chapter. Such solid waste collection company
19 which has paid the plate fee and gross weight fees required by chapter
20 81.80 RCW for the year 1961 shall not be required to pay additional
21 like fees under the provisions of this chapter for the remainder of
22 such year.

23 For purposes of issuing certificates under this chapter, the
24 commission may adopt categories of solid wastes as follows: Garbage,
25 refuse, recyclable materials, and demolition debris. A certificate may
26 be issued for one or more categories of solid waste. Certificates
27 issued on or before July 23, 1989, shall not be expanded or restricted
28 by operation of this chapter.

29 **Sec. 7.** RCW 81.84.020 and 2003 c 373 s 5 are each amended to read
30 as follows:

31 (1) Upon the filing of an application the commission shall give
32 reasonable notice to the department, affected cities, counties, and
33 public transportation benefit areas and any common carrier which might
34 be adversely affected, of the time and place for hearing on such
35 application. The commission shall have power after notice and an
36 opportunity for a hearing, to issue the certificate as prayed for, or
37 to refuse to issue it, or to issue it for the partial exercise only of

1 the privilege sought, and may attach to the exercise of the rights
2 granted by said certificate such terms and conditions as in its
3 judgment the public convenience and necessity may require; but the
4 commission shall not have power to grant a certificate to operate
5 between districts and/or into any territory prohibited by RCW 47.60.120
6 or already served by an existing certificate holder, unless such
7 existing certificate holder has failed or refused to furnish reasonable
8 and adequate service ~~((or))~~, has failed to provide the service
9 described in its certificate or tariffs after the time period allowed
10 to initiate service has elapsed, or has not objected to the issuance of
11 the certificate as prayed for: PROVIDED, A certificate shall be
12 granted when it shall appear to the satisfaction of the commission that
13 the commercial ferry was actually operating in good faith over the
14 route for which such certificate shall be sought, on January 15, 1927:
15 PROVIDED, FURTHER, That in case two or more commercial ferries shall
16 upon said date have been operating vessels upon the same route, or
17 between the same districts the commission shall determine after public
18 hearing whether one or more certificates shall issue, and in
19 determining to whom a certificate or certificates shall be issued, the
20 commission shall consider all material facts and circumstances
21 including the prior operation, schedules, and services rendered by
22 either of the ferries, and in case more than one certificate shall
23 issue, the commission shall fix and determine the schedules and
24 services of the ferries to which the certificates are issued to the end
25 that duplication of service be eliminated and public convenience be
26 furthered.

27 (2) Before issuing a certificate, the commission shall determine
28 that the applicant has the financial resources to operate the proposed
29 service for at least twelve months, based upon the submission by the
30 applicant of a pro forma financial statement of operations. Issuance
31 of a certificate shall be determined upon, but not limited to, the
32 following factors: Ridership and revenue forecasts; the cost of
33 service for the proposed operation; an estimate of the cost of the
34 assets to be used in providing the service; a statement of the total
35 assets on hand of the applicant that will be expended on the proposed
36 operation; and a statement of prior experience, if any, in such field
37 by the applicant. The documentation required of the applicant under
38 this section shall comply with the provisions of RCW 9A.72.085.

1 (3) Subsection (2) of this section does not apply to an application
2 for a certificate that is pending as of July 25, 1993.

3 (4) In granting a certificate for passenger-only ferries and
4 determining what conditions to place on the certificate, the commission
5 shall consider and give substantial weight to the effect of its
6 decisions on public agencies operating, or eligible to operate,
7 passenger-only ferry service.

8 (5) Until March 1, 2005, the commission shall not consider an
9 application for passenger-only ferry service serving any county in
10 Puget Sound, unless the public transportation benefit area authority or
11 ferry district serving that county, by resolution, agrees to the
12 application.

13 NEW SECTION. **Sec. 8.** A new section is added to chapter 81.68 RCW
14 to read as follows:

15 The commission may, with or without a hearing, issue temporary
16 certificates to engage in the business of operating an auto
17 transportation company, but only after it finds that the issuance of
18 the temporary certificate is consistent with the public interest. The
19 temporary certificate may be issued for a period up to one hundred
20 eighty days. The commission may prescribe rules and impose terms and
21 conditions as in its judgment are reasonable and necessary in carrying
22 out this chapter. The commission may by rule, prescribe a fee for an
23 application for the temporary certificate. The commission shall not
24 issue a temporary certificate to operate in a territory: (1) For which
25 a certificate has been issued, unless the existing certificate holder,
26 upon twenty days' notice, does not object to the issuance of the
27 certificate or is not providing service; or (2) for which an
28 application is pending unless the filing for a temporary certificate is
29 made by the applicant or the applicant does not object to the issuance
30 of the certificate.

31 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of the
33 state government and its existing public institutions, and takes effect
34 immediately.

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