

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1312

60th Legislature
2007 Regular Session

Passed by the House March 6, 2007
Yeas 97 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 12, 2007
Yeas 47 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1312** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1312

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By House Committee on Transportation (originally sponsored by Representatives Hudgins and Hankins; by request of Utilities & Transportation Commission)

READ FIRST TIME 02/27/07.

1 AN ACT Relating to the regulation of transportation providers;
2 amending RCW 80.01.040, 81.04.010, 81.04.080, 81.04.130, 81.04.150,
3 81.04.160, 81.04.220, 81.04.240, 81.04.250, 81.04.270, 81.04.280,
4 81.04.300, 81.04.330, 81.04.350, 81.04.360, 81.08.010, 81.12.010,
5 81.16.010, 81.24.010, 81.28.010, 81.28.020, 81.28.030, 81.28.040,
6 81.28.050, 81.28.080, 81.28.180, 81.28.190, 81.28.200, 81.28.210,
7 81.28.220, 81.28.230, 81.28.250, 81.28.260, 81.29.010, 81.29.020,
8 81.44.010, 81.44.020, 81.44.040, 81.61.020, 81.66.040, 81.66.060,
9 81.68.010, 81.68.015, 81.68.020, 81.68.040, 81.68.060, 81.68.065,
10 81.68.080, 81.68.090, 81.70.020, 81.70.030, 81.70.230, 81.70.250,
11 81.70.280, 81.70.290, 81.70.320, 81.70.330, 81.70.340, 81.77.010,
12 81.77.040, 81.77.100, 81.80.010, 81.80.020, 81.80.045, 81.80.060,
13 81.80.070, 81.80.080, 81.80.130, 81.80.140, 81.80.150, 81.80.170,
14 81.80.190, 81.80.220, 81.80.230, 81.80.250, 81.80.260, 81.80.270,
15 81.80.272, 81.80.280, 81.80.305, 81.80.330, 81.80.370, 81.80.371,
16 81.80.430, 81.84.020, 47.76.230, 47.76.240, 81.68.030, 81.84.060,
17 79A.40.100, 81.53.261, and 15.66.270; reenacting and amending RCW
18 81.84.010; adding new sections to chapter 81.04 RCW; adding a new
19 section to chapter 81.66 RCW; adding a new section to chapter 81.68
20 RCW; adding a new section to chapter 81.70 RCW; adding a new section to
21 chapter 81.77 RCW; adding a new section to chapter 81.80 RCW; adding a

1 new section to chapter 81.48 RCW; recodifying RCW 81.56.120; and
2 repealing RCW 15.65.610, 81.04.170, 81.04.180, 81.04.190, 81.04.520,
3 81.08.070, 81.36.070, 81.40.040, 81.40.100, 81.44.031, 81.44.032,
4 81.44.050, 81.44.060, 81.44.065, 81.44.091, 81.44.092, 81.44.093,
5 81.44.094, 81.44.095, 81.44.096, 81.44.097, 81.44.0971, 81.44.0972,
6 81.44.098, 81.44.0981, 81.44.0982, 81.44.099, 81.44.100, 81.44.101,
7 81.44.102, 81.44.103, 81.44.104, 81.44.105, 81.44.110, 81.44.120,
8 81.48.010, 81.48.015, 81.52.010, 81.52.020, 81.52.030, 81.52.040,
9 81.56.010, 81.56.020, 81.56.030, 81.56.040, 81.56.050, 81.56.060,
10 81.56.070, 81.56.080, 81.56.100, 81.56.110, 81.56.130, 81.56.140,
11 81.56.150, 81.56.160, 81.68.070, 81.70.300, 81.77.015, 81.77.070,
12 81.80.030, 81.80.175, 81.80.240, 81.80.301, 81.80.312, 81.80.318,
13 81.80.340, 81.80.346, 81.80.375, 81.80.380, 81.80.381, 81.80.391,
14 81.80.395, 81.80.400, 81.80.410, 81.80.420, 81.80.440, 81.80.450, and
15 81.80.460.

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

17 **Sec. 1.** RCW 80.01.040 and 1985 c 450 s 10 are each amended to read
18 as follows:

19 The utilities and transportation commission shall:

20 (1) Exercise all the powers and perform all the duties prescribed
21 ~~((therefor))~~ by this title and by Title 81 RCW, or by any other law.

22 (2) Regulate in the public interest, as provided by the public
23 service laws, ~~((the rates, services, facilities, and practices of))~~ all
24 persons engaging in the transportation ~~((by whatever means))~~ of persons
25 or property within this state for compensation~~((, and related~~
26 ~~activities; including, but not limited to, air transportation~~
27 ~~companies, auto transportation companies, express companies, freight~~
28 ~~and freight line companies, motor freight companies, motor~~
29 ~~transportation agents, private car companies, railway companies,~~
30 ~~sleeping car companies, steamboat companies, street railway companies,~~
31 ~~toll bridge companies, storage warehousemen, and wharfingers and~~
32 ~~warehousemen)).~~

33 (3) Regulate in the public interest, as provided by the public
34 service laws, the rates, services, facilities, and practices of all
35 persons engaging within this state in the business of supplying any
36 utility service or commodity to the public for compensation~~((, and~~

1 ~~related activities; including, but not limited to, electrical~~
2 ~~companies, gas companies, irrigation companies, telecommunications~~
3 ~~companies, and water companies)).~~

4 (4) Make ((~~such~~)) rules and regulations ((~~as may be~~)) necessary to
5 carry out its other powers and duties.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 81.04 RCW
7 to read as follows:

8 (1) The commission shall cooperate with the federal government and
9 the United States department of transportation, or its successor, or
10 any other commission or agency delegated or authorized to regulate
11 interstate or foreign commerce by common carriers, to the end that the
12 transportation of property and passengers by common carriers in
13 interstate or foreign commerce into and through the state of Washington
14 may be regulated and that the laws of the United States and the state
15 of Washington are enforced and administered cooperatively in the public
16 interest.

17 (2) In addition to its authority concerning interstate commerce
18 under this title, the commission may regulate common carriers in
19 interstate commerce within the state under the authority of and in
20 accordance with any act of congress that vests in or delegates to the
21 commission such authority as an agency of the United States government
22 or under an agreement with the United States department of
23 transportation, or its successor, or any other commission or agency
24 delegated or authorized to regulate interstate or foreign commerce by
25 common carriers.

26 (3) For the purpose of participating with the United States
27 department of transportation in investigation and inspection activities
28 necessary to enforce federal railroad safety regulations, the
29 commission has regulatory jurisdiction over the safety practices for
30 railroad equipment, facilities, rolling stock, and operations in the
31 state.

32 NEW SECTION. **Sec. 3.** A new section is added to chapter 81.04 RCW
33 to read as follows:

34 The commission shall administer the railroad safety provisions of
35 this title to the fullest extent allowed under 49 U.S.C. Sec. 20106 and
36 state law.

1 **Sec. 4.** RCW 81.04.010 and 1993 c 427 s 9 are each amended to read
2 as follows:

3 As used in this title, unless specially defined otherwise or unless
4 the context indicates otherwise:

5 (1) "Commission" means the utilities and transportation commission.

6 (2) "Commissioner" means one of the members of such commission.

7 (3) "Corporation" includes a corporation, company, association, or
8 joint stock association.

9 (4) "Low-level radioactive waste site operating company" includes
10 every corporation, company, association, joint stock association,
11 partnership, and person, their lessees, trustees, or receivers
12 appointed by any court whatsoever, owning, operating, controlling, or
13 managing a low-level radioactive waste disposal site or sites located
14 within the state of Washington.

15 (5) "Low-level radioactive waste" means low-level waste as defined
16 by RCW 43.145.010.

17 (6) "Person" includes an individual, a firm, or copartnership.

18 (7) "Street railroad" includes every railroad by whatsoever power
19 operated, or any extension or extensions, branch or branches thereof,
20 for public use in the conveyance of persons or property for hire, being
21 mainly upon, along, above, or below any street, avenue, road, highway,
22 bridge, or public place within any one city or town, and includes all
23 equipment, switches, spurs, tracks, bridges, right of trackage,
24 subways, tunnels, stations, terminals, and terminal facilities of every
25 kind used, operated, controlled, or owned by or in connection with any
26 such street railroad, within this state.

27 (8) "Street railroad company" includes every corporation, company,
28 association, joint stock association, partnership, and person, their
29 lessees, trustees, or receivers appointed by any court whatsoever, and
30 every city or town, owning, controlling, operating, or managing any
31 street railroad or any cars or other equipment used thereon or in
32 connection therewith within this state.

33 (9) "Railroad" includes every railroad, other than street railroad,
34 by whatsoever power operated for public use in the conveyance of
35 persons or property for hire, with all (~~(bridges, ferries, tunnels,)~~)
36 facilities and equipment, (~~((switches, spurs, tracks, stations, and~~
37 ~~terminal facilities of every kind))~~) used, operated, controlled, or
38 owned by or in connection with any such railroad.

1 (10) "Railroad company" includes every corporation, company,
2 association, joint stock association, partnership, or person, their
3 lessees, trustees, or receivers appointed by any court whatsoever,
4 owning, operating, controlling, or managing any railroad or any cars or
5 other equipment used thereon or in connection therewith within this
6 state.

7 (~~"Express company" includes every corporation, company,~~
8 ~~association, joint stock association, partnership, and person, their~~
9 ~~lessees, trustees, or receivers appointed by any court whatsoever, who~~
10 ~~shall engage in or transact the business of carrying any freight,~~
11 ~~merchandise, or property for hire on the line of any common carrier~~
12 ~~operated in this state.))~~

13 (11) "Common carrier" includes all railroads, railroad companies,
14 street railroads, street railroad companies, commercial ferries,
15 (~~express companies, car companies, sleeping car companies,))~~ motor
16 freight (~~companies, freight line companies~~) carriers, auto
17 transportation companies, charter party carriers and excursion service
18 carriers, private nonprofit transportation providers, solid waste
19 collection companies, household goods carriers, hazardous liquid
20 pipeline companies, and every corporation, company, association, joint
21 stock association, partnership, and person, their lessees, trustees, or
22 receivers appointed by any court whatsoever, and every city or town,
23 owning, operating, managing, or controlling any such agency for public
24 use in the conveyance of persons or property for hire within this
25 state.

26 (12) "Vessel" includes every species of watercraft, by whatsoever
27 power operated, for public use in the conveyance of persons or property
28 for hire over and upon the waters within this state, excepting all
29 towboats, tugs, scows, barges, and lighters, and excepting rowboats and
30 sailing boats under twenty gross tons burden, open steam launches of
31 five tons gross and under, and vessels under five tons gross propelled
32 by gas, fluid, naphtha, or electric motors.

33 (13) "Commercial ferry" includes every corporation, company,
34 association, joint stock association, partnership, and person, their
35 lessees, trustees, or receivers, appointed by any court whatsoever,
36 owning, controlling, leasing, operating, or managing any vessel over
37 and upon the waters of this state.

1 (14) "Transportation of property" includes any service in
2 connection with the receiving, delivery, elevation, transfer in
3 transit, ventilation, refrigeration, icing, storage, and handling of
4 the property transported, and the transmission of credit.

5 (15) "Transportation of persons" includes any service in connection
6 with the receiving, carriage, and delivery of (~~the person~~) persons
7 transported and (~~his~~) their baggage and all facilities used, or
8 necessary to be used in connection with the safety, comfort, and
9 convenience of (~~the person~~) persons transported.

10 (16) "Public service company" includes every common carrier.

11 (17) The term "service" is used in this title in its broadest and
12 most inclusive sense.

13 **Sec. 5.** RCW 81.04.080 and 1989 c 107 s 2 are each amended to read
14 as follows:

15 Every public service company shall annually furnish to the
16 commission a report in such form as the commission may require, and
17 shall specifically answer all questions propounded to it by the
18 commission(~~, upon or concerning which the commission may need~~
19 ~~information. Such annual reports shall show in detail the amount of~~
20 ~~capital stock issued, the amounts paid therefor and the manner of~~
21 ~~payment for same, the dividends paid, the surplus fund, if any, and the~~
22 ~~number of stockholders, the funded and floating debts and the interest~~
23 ~~paid thereon, the cost and value of the company's property, franchises~~
24 ~~and equipment, the number of employees and the salaries paid each~~
25 ~~class, the accidents to passengers, employees and other persons and the~~
26 ~~cost thereof, the amounts expended for improvements each year, how~~
27 ~~expended and the character of such improvements, the earnings or~~
28 ~~receipts from each franchise or business and from all sources, the~~
29 ~~proportion thereof earned from business moving wholly within the state~~
30 ~~and the proportion earned from interstate traffic, the nature of the~~
31 ~~traffic movement showing the percentage of the ton miles each class of~~
32 ~~commodity bears to the total ton mileage, the operating and other~~
33 ~~expenses and the proportion of such expense incurred in transacting~~
34 ~~business wholly within the state, and the proportion incurred in~~
35 ~~transacting interstate business, such division to be shown according to~~
36 ~~such rules of division as the commission may prescribe, the balances of~~
37 ~~profit and loss, and a complete exhibit of the financial operations of~~

1 ~~the carrier each year, including an annual balance sheet. Such report~~
2 ~~shall also contain such information in relation to rates, charges or~~
3 ~~regulations concerning fares, charges or freights, or agreements,~~
4 ~~arrangements or contracts affecting the same, as the commission may~~
5 ~~require; and)). The commission may(, in its discretion, for the~~
6 ~~purpose of enabling it the better to carry out the provisions of this~~
7 ~~title,)) prescribe the period of time within which all public service~~
8 companies subject to ~~((the provisions of))~~ this title ~~((shall))~~ must
9 have, as near as may be, a uniform system of accounts, and the manner
10 in which ~~((such))~~ the accounts ~~((shall))~~ must be kept. ~~((Such))~~ The
11 detailed report ~~((shall))~~ must contain all the required statistics for
12 the period of twelve months ending on the last day of any particular
13 month prescribed by the commission for any public service company.
14 ~~((Such))~~ The reports ~~((shall))~~ must be made out under oath and filed
15 with the commission at its office in Olympia on ~~((such))~~ a date ~~((as))~~
16 the commission specifies by rule, unless additional time ~~((be))~~ is
17 granted ~~((in any case))~~ by the commission. The commission ~~((shall have~~
18 ~~authority to))~~ may require any public service company to file monthly
19 reports of earnings and expenses, and to file periodical or special
20 reports, or both ~~((periodical and special, reports))~~,
21 concerning any matter ~~((about which))~~ the commission is authorized or required,
22 by this or any other law, to inquire into or keep itself informed about,
23 or which it is required to enforce, ~~((such))~~ the periodical or special
24 reports to be under oath whenever the commission so requires.

25 **Sec. 6.** RCW 81.04.130 and 1993 c 300 s 1 are each amended to read
26 as follows:

27 Whenever any public service company, ~~((other than a railroad~~
28 ~~company))~~ subject to regulation by the commission as to rates and
29 service, files with the commission any schedule, classification, rule,
30 or regulation, the effect of which is to change any rate, fare, charge,
31 rental, or toll previously charged, the commission ~~((has power))~~ may,
32 either upon its own motion or upon complaint, upon notice, ~~((to))~~
33 a hearing concerning the proposed change and the reasonableness and
34 justness of it. Pending the hearing and the decision,
35 the commission may suspend the operation of the rate, fare, charge, rental, or toll,
36 if the change is proposed by a common carrier ~~((subject to the~~
37 ~~jurisdiction of the commission,))~~ other than a solid waste collection

1 company, for a period not exceeding seven months, and, if proposed by
2 a solid waste collection company, for a period not exceeding ten months
3 from the time the change would otherwise go into effect. After a full
4 hearing the commission may make ~~((such))~~ the order in reference to the
5 change as would be provided in a hearing initiated after the change had
6 become effective.

7 At any hearing involving any change in any schedule,
8 classification, rule, or regulation the effect of which is to increase
9 any rate, fare, charge, rental, or toll theretofore charged, the burden
10 of proof to show that ~~((such))~~ the increase is just and reasonable is
11 upon the public service company. When any common carrier ~~((subject to
12 the jurisdiction of the commission))~~ files any tariff, classification,
13 rule, or regulation the effect of which is to decrease any rate, fare,
14 or charge, the burden of proof to show that such decrease is just and
15 reasonable is upon the common carrier.

16 **Sec. 7.** RCW 81.04.150 and 1984 c 143 s 2 are each amended to read
17 as follows:

18 Whenever the commission finds, after a hearing ~~((had))~~ upon its own
19 motion or upon complaint as provided in this chapter, that any rate,
20 toll, rental, or charge that has been the subject of complaint and
21 inquiry is sufficiently remunerative to the public service company ~~((
22 other than a railroad company,))~~ subject to regulation by the
23 commission as to rates and service affected by it, the commission may
24 order that the rate, toll, rental, or charge ~~((shall))~~ must not be
25 changed, altered, abrogated, or discontinued, nor ~~((shall))~~ must there
26 be any change in the classification that will change or alter the rate,
27 toll, rental, or charge without first obtaining the consent of the
28 commission authorizing the change to be made.

29 **Sec. 8.** RCW 81.04.160 and 1961 c 14 s 81.04.160 are each amended
30 to read as follows:

31 The commission ~~((is hereby authorized and empowered to))~~ may
32 ~~adopt((, promulgate and issue rules and regulations covering the
33 bulletining of trains, showing the time of arrival and departure of all
34 trains, and the probable arrival and departure of delayed trains; the
35 conditions to be contained in and become a part of contracts for
36 transportation of persons and property, and any and all services~~

1 ~~concerning the same, or connected therewith; the time that station~~
2 ~~rooms and offices shall be kept open; rules governing demurrage and~~
3 ~~reciprocal demurrage, and to provide reasonable penalties to expedite~~
4 ~~the prompt movement of freight and release of cars, the limits of~~
5 ~~express deliveries in cities and towns, and generally such)) rules~~
6 ~~((as)) that pertain to the comfort and convenience of the public~~
7 ~~((concerning the subjects treated of in this title. Such rules and~~
8 ~~regulations shall be promulgated and issued by the commission on its~~
9 ~~own motion, and shall be served on the public service company affected~~
10 ~~thereby as other orders of the commission are served. Any public~~
11 ~~service company affected thereby, and deeming such rules and~~
12 ~~regulations, or any of them, improper, unjust, unreasonable, or~~
13 ~~contrary to law, may within twenty days from the date of service of~~
14 ~~such order upon it file objections thereto with the commission,~~
15 ~~specifying the particular grounds of such objections. The commission~~
16 ~~shall, upon receipt of such objections, fix a time and place for~~
17 ~~hearing the same, and after a full hearing may make such changes or~~
18 ~~modifications thereto, if any, as the evidence may justify. The~~
19 ~~commission shall have, and it is hereby given, power to adopt rules to~~
20 ~~govern its proceedings, and to regulate the mode and manner of all~~
21 ~~investigations and hearings: PROVIDED, No person desiring to be~~
22 ~~present at such hearing shall be denied permission. Actions may be~~
23 ~~instituted to review rules and regulations promulgated under this~~
24 ~~section as in the case of orders of the commission)) using the services~~
25 ~~of public service companies that are subject to regulation by the~~
26 ~~commission as to services provided.~~

27 **Sec. 9.** RCW 81.04.220 and 1961 c 14 s 81.04.220 are each amended
28 to read as follows:

29 ((When)) After a complaint ((has been)) is made to the commission
30 concerning the reasonableness of any rate, fare, toll, rental or charge
31 for any service performed by any public service company subject to
32 regulation by the commission as to rates and service, and the ((same
33 has been)) complaint is investigated by the commission, and the
34 commission ((has determined)) determines both that the public service
35 company has charged an excessive or exorbitant amount for ((such)) the
36 service((r)) and ((the commission has determined)) that any party
37 complainant is entitled to an award of damages, the commission shall

1 order (~~that~~) the public service company to pay (~~to~~) the complainant
2 the excess amount found to have been charged, whether (~~such~~) the
3 excess amount was charged and collected before or after the filing of
4 (~~said~~) the complaint, with interest from the date of the collection
5 of (~~said~~) the excess amount.

6 **Sec. 10.** RCW 81.04.240 and 1961 c 14 s 81.04.240 are each amended
7 to read as follows:

8 If the public service company subject to regulation by the
9 commission as to rates and service does not comply with the order of
10 the commission for the payment of damages or overcharges within the
11 time limited in the order, action may be brought in any superior court
12 where service may be had upon the company to recover the amount of
13 damages or overcharges with interest. The commission shall certify and
14 file its record in the case, including all exhibits, with the clerk of
15 the court within thirty days after (~~such~~) the action is started
16 (~~and~~). The action (~~shall~~) must be heard on the evidence and
17 exhibits introduced before and certified by the commission (~~and~~
18 ~~certified to by it~~).

19 If the complainant (~~shall prevail~~) prevails in the action, the
20 court shall enter judgment for the amount of damages or overcharges
21 with interest and (~~shall allow~~) award the complainant ((a))
22 reasonable attorney's fees, and the cost of preparing and certifying
23 the record for the benefit of and to be paid to the commission by
24 complainant, and deposited by the commission in the public service
25 revolving fund, (~~said~~) the sums to be fixed and collected as a part
26 of the costs of the action.

27 If the order of the commission is found contrary to law or
28 erroneous by (~~reason of~~) the rejection of testimony properly offered,
29 the court shall remand the cause to the commission with instructions to
30 receive the testimony so proffered and rejected and enter a new order
31 based upon the evidence theretofore taken and such as it is directed to
32 receive.

33 The court may remand any action (~~which is reversed by~~) it
34 reverses to the commission for further action.

35 Appeals to the supreme court shall lie as in other civil cases.
36 Action to recover damages or overcharges (~~shall~~) must be filed in the

1 superior court within one year from the date of the order of the
2 commission.

3 The procedure provided in this section is exclusive, and neither
4 the supreme court nor any superior court (~~((shall have))~~) has
5 jurisdiction (~~((save in the manner hereinbefore))~~) except as provided.

6 **Sec. 11.** RCW 81.04.250 and 1984 c 143 s 3 are each amended to read
7 as follows:

8 The commission (~~((has the power))~~) may, upon complaint or upon its
9 own motion (~~((to))~~), prescribe and authorize just and reasonable rates
10 for the transportation of persons or property (~~((by carriers other than~~
11 ~~railroad companies, and shall exercise that power))~~) for any public
12 service company subject to regulation by the commission as to rates and
13 service, whenever and as often as it deems necessary or proper. The
14 commission shall, before any hearing (~~((is had))~~) upon the complaint or
15 motion, notify the complainants and the carrier concerned of the time
16 and place of the hearing by giving at least ten days' written notice
17 thereof, specifying that at the time and place designated a hearing
18 will be held for the purpose of prescribing and authorizing the rates.
19 The notice is sufficient to authorize the commission to inquire into
20 and pass upon the matters designated in this section.

21 In exercising this power, the commission may use any standard,
22 formula, method, or theory of valuation reasonably calculated to arrive
23 at the objective of prescribing and authorizing just and reasonable
24 rates.

25 In the exercise of this power, the commission may (~~((give~~
26 ~~consideration))~~) consider, in addition to other factors, (~~((to))~~) the
27 following:

28 (1) (~~((To))~~) The effect of the rates upon movement of traffic by the
29 carriers;

30 (2) (~~((To))~~) The public need for adequate transportation facilities,
31 equipment, and service at the lowest level of charges consistent with
32 the provision, maintenance, and renewal of the facilities, equipment,
33 and service; and

34 (3) (~~((To))~~) The carrier need for revenue of a level that under
35 honest, efficient, and economical management is sufficient to cover the
36 cost (~~((+))~~), including all operating expenses, depreciation accruals,
37 rents, and taxes of every kind (~~((+))~~), of providing adequate

1 transportation service, plus an amount equal to the percentage of that
2 cost as is reasonably necessary for the provision, maintenance, and
3 renewal of the transportation facilities or equipment and a reasonable
4 profit to the carrier. The relation of carrier expenses to carrier
5 revenues may be deemed the proper test of a reasonable profit.

6 ~~((This section does not apply to railroad companies, which shall be
7 regulated in this regard by chapter 81.34 RCW and rules adopted
8 thereunder.))~~

9 **Sec. 12.** RCW 81.04.270 and 1961 c 14 s 81.04.270 are each amended
10 to read as follows:

11 Any public service company ~~((engaging))~~, subject to regulation by
12 the commission as to rates and services, that engages in the sale of
13 merchandise or appliances or equipment shall keep separate accounts, as
14 prescribed by the commission, of its capital employed in such business
15 and of its revenues therefrom and operating expenses thereof. The
16 capital employed in such business ~~((shall))~~ is not ~~((constitute))~~ a
17 part of the fair value of ~~((said))~~ the company's property for rate
18 making purposes, ~~((nor shall))~~ and the revenues from or operating
19 expenses of such business ~~((constitute))~~ are not a part of the
20 operating revenues and expenses of ~~((said))~~ the company as a public
21 service company.

22 **Sec. 13.** RCW 81.04.280 and 1961 c 14 s 81.04.280 are each amended
23 to read as follows:

24 ~~((No))~~ A public service company subject to regulation by the
25 commission as to rates and service shall not: (1) Permit any employee
26 to sell, offer for sale, or solicit the purchase of any security of any
27 other person or corporation during such hours as such employee is
28 engaged to perform any duty of such public service company; ~~((nor shall~~
29 ~~any public service company))~~ (2) by any means or device, require any
30 employee to purchase or contract to purchase any of its securities or
31 those of any other person or corporation; ~~((nor shall any public~~
32 ~~service company))~~ or (3) require any employee to permit the deduction
33 from his wages or salary of any sum as a payment or to be applied as a
34 payment of any purchase or contract to purchase any security of such
35 public service company or of any other person or corporation.

1 **Sec. 14.** RCW 81.04.300 and 1961 c 14 s 81.04.300 are each amended
2 to read as follows:

3 The commission may regulate, restrict, and control the budgets of
4 expenditures of public service companies subject to regulation by the
5 commission as to rates and service. The commission may require each
6 company (~~shall~~) to prepare a budget showing the amount of money
7 which, in its judgment, (~~will be~~) is needed during the ensuing year
8 for maintenance, operation, and construction, classified by accounts as
9 prescribed by the commission, and shall within ten days of the date it
10 is approved by the company file it with the commission for its
11 investigation and approval or rejection. When a budget has been filed
12 (~~with~~), the commission (~~it~~) shall examine into and investigate it
13 to determine whether the expenditures therein proposed are fair and
14 reasonable and not contrary to public interest.

15 Adjustments or additions to budget expenditures may be made from
16 time to time during the year by filing a supplementary budget with the
17 commission for its investigation and approval or rejection.

18 **Sec. 15.** RCW 81.04.330 and 1961 c 14 s 81.04.330 are each amended
19 to read as follows:

20 Any public service company subject to regulation by the commission
21 as to rates and service may make or contract for any rejected item of
22 expenditure, but in such case the (~~same~~) rejected item of expenditure
23 shall not be allowed as an operating expense, or as to items of
24 construction, as a part of the fair value of the company's property
25 used and useful in serving the public: PROVIDED, That such items of
26 construction may at any time thereafter be so allowed in whole or in
27 part upon proof that they are used and useful. Any company may upon
28 the happening of any emergency caused by fire, flood, explosion, storm,
29 earthquake, riot, or insurrection, or for the immediate preservation or
30 restoration to condition of usefulness of any of its property, the
31 usefulness of which has been destroyed by accident, make the necessary
32 expenditure therefor free from the operation of RCW 81.04.300 through
33 81.04.330.

34 Any finding and order entered by the commission (~~shall be in~~
35 ~~effect~~) is effective until vacated and set aside in proper proceedings
36 for review thereof.

1 **Sec. 16.** RCW 81.04.350 and 1961 c 14 s 81.04.350 are each amended
2 to read as follows:

3 The commission (~~((shall have power))~~) may after hearing (~~((to))~~)
4 require any (~~((or all))~~) public service (~~((companies))~~) company subject to
5 regulation by the commission as to rates and service to carry proper
6 and adequate depreciation or retirement accounts in accordance with
7 such rules, regulations, and forms of accounts as the commission may
8 prescribe. The commission may from time to time ascertain and by order
9 fix the proper and adequate rates of depreciation or retirement of the
10 several classes of property of each public service company. Each
11 public service company shall conform its depreciation or retirement
12 accounts to the rates so prescribed. In fixing the rate of the annual
13 depreciation or retirement charge, the commission may consider the rate
14 and amount theretofore charged by the company for depreciation or
15 retirement.

16 The commission (~~((shall have and))~~) may exercise like power and
17 authority over all other reserve accounts of public service companies.

18 **Sec. 17.** RCW 81.04.360 and 1961 c 14 s 81.04.360 are each amended
19 to read as follows:

20 If any public service company subject to regulation by the
21 commission as to rates and service earns in the period of five
22 consecutive years immediately preceding the commission order fixing
23 rates for such company a net utility operating income in excess of a
24 reasonable rate of return upon the fair value of its property used and
25 useful in the public service, the commission shall take official notice
26 of such fact and of whether any such excess earnings (~~((shall have~~
27 ~~been))~~) were invested in such company's plant or otherwise used for
28 purposes beneficial to the consumers of such company and may consider
29 such facts in fixing rates for such company.

30 **Sec. 18.** RCW 81.08.010 and 1981 c 13 s 3 are each amended to read
31 as follows:

32 (~~((The term))~~) "Public service company(~~(("r"))~~)," as used in this
33 chapter, (~~((shall mean))~~) means every (~~((company now or hereafter engaged~~
34 ~~in business in this state as a public utility and))~~) common carrier
35 subject to regulation as to rates and service by the utilities and
36 transportation commission under (~~((the provisions of))~~) this title(~~((÷~~

1 ~~PROVIDED, That it shall not include any such company the issuance of~~
2 ~~stocks and securities of which is subject to regulation by the~~
3 ~~Interstate Commerce Commission: PROVIDED FURTHER, That it shall not~~
4 ~~include any "motor carrier" as that term is defined in RCW 81.80.010~~
5 ~~or)), except any "household goods carrier" subject to chapter 81.80 RCW~~
6 ~~or any "((garbage and refuse)) solid waste collection company" subject~~
7 ~~to ((the provisions of)) chapter 81.77 RCW.~~

8 **Sec. 19.** RCW 81.12.010 and 1981 c 13 s 4 are each amended to read
9 as follows:

10 ~~((The term)) "Public service company," as used in this chapter,~~
11 ~~((shall mean)) means every ((company now or hereafter engaged in~~
12 ~~business in this state as a public utility and)) common carrier subject~~
13 ~~to regulation as to rates and service by the utilities and~~
14 ~~transportation commission under the provisions of this title((+~~
15 ~~PROVIDED, That)). It ((shall)) does not include common carriers~~
16 ~~subject to regulation by the ((Interstate Commerce Commission:~~
17 ~~PROVIDED FURTHER, That it shall not include motor freight carriers~~
18 ~~subject to the provisions of)) federal energy regulatory commission or~~
19 ~~the United States department of transportation, household goods~~
20 ~~carriers subject to chapter 81.80 RCW, or ((garbage and refuse)) solid~~
21 ~~waste collection companies subject to ((the provisions of)) chapter~~
22 ~~81.77 RCW((: PROVIDED FURTHER, That nothing contained in this chapter~~
23 ~~shall relieve public service companies from the necessity for~~
24 ~~compliance with the provisions of RCW 81.80.270)). This section does~~
25 ~~not apply to transfers of permits or certificates.~~

26 **Sec. 20.** RCW 81.16.010 and 1969 ex.s. c 210 s 5 are each amended
27 to read as follows:

28 As used in this chapter(~~, the term~~):

29 (1) "Public service company" ~~((shall include))~~ means every
30 corporation engaged in business as a ~~((public utility))~~ common carrier
31 and subject to regulation as to rates and service by the utilities and
32 transportation commission under ~~((the provisions of))~~ this title.

33 ~~((As used in this chapter, the term))~~

34 (2) "Affiliated interest(~~(τ)~~)" means:

35 (a) Every corporation and person owning or holding directly or

1 indirectly five percent or more of the voting securities of any public
2 service company engaged in any intrastate business in this state;

3 (b) Every corporation and person, other than those above specified,
4 in any chain of successive ownership of five percent or more of voting
5 securities, the chain beginning with the holder of the voting
6 securities of such public service company;

7 (c) Every corporation five percent or more of whose voting
8 securities are owned by any person or corporation owning five percent
9 or more of the voting securities of such public service company or by
10 any person or corporation in any such chain of successive ownership of
11 five percent or more of voting securities;

12 (d) Every corporation or person with which the public service
13 company has a management or service contract; and

14 (e) Every person who is an officer or director of such public
15 service company or of any corporation in any chain of successive
16 ownership of five percent or more of voting securities.

17 **Sec. 21.** RCW 81.24.010 and 2003 c 296 s 2 are each amended to read
18 as follows:

19 (1) Every company subject to regulation by the commission, except
20 (~~auto transportation companies, steamboat companies, and motor freight~~
21 ~~carriers~~) those listed in subsection (3) of this section, shall, on or
22 before the date specified by the commission for filing annual reports
23 under RCW 81.04.080, file with the commission a statement on oath
24 showing its gross operating revenue from intrastate operations for the
25 preceding calendar year, or portion thereof, and pay to the commission
26 a fee equal to one-tenth of one percent of the first fifty thousand
27 dollars of gross operating revenue, plus two-tenths of one percent of
28 any gross operating revenue in excess of fifty thousand dollars, except
29 railroad companies which shall each pay to the commission a fee equal
30 to one and one-half percent of its intrastate gross operating revenue.
31 The commission may, by rule, set minimum fees that do not exceed the
32 cost of collecting the fees. The commission may by rule waive any or
33 all of the minimum fee established pursuant to this section. Any
34 railroad association that qualifies as a (~~not for profit~~) nonprofit
35 charitable organization under the federal internal revenue code section
36 501(c)(3) is exempt from the fee required under this subsection.

1 (2) The percentage rates of gross operating revenue to be paid in
2 any one year may be decreased by the commission for any class of
3 companies subject to the payment of such fees, by general order entered
4 before March 1st of such year, and for such purpose (~~((such))~~) railroad
5 companies (~~((shall be))~~) are classified as (~~((follows: Railroad, express,~~
6 ~~sleeping car, and toll bridge companies shall constitute))~~) class two.
7 Every other company subject to regulation by the commission, for which
8 regulatory fees are not otherwise fixed by law, shall pay fees as
9 herein provided and shall constitute additional classes according to
10 kinds of businesses engaged in.

11 (3) This section does not apply to private nonprofit transportation
12 providers, auto transportation companies, charter party carriers and
13 excursion service carriers, solid waste collection companies, motor
14 freight carriers, household goods carriers, commercial ferries, and
15 low-level radioactive waste storage facilities.

16 **Sec. 22.** RCW 81.28.010 and 1961 c 14 s 81.28.010 are each amended
17 to read as follows:

18 All charges made for any service rendered or to be rendered in the
19 transportation of persons or property, or in connection therewith, by
20 any common carrier subject to regulation by the commission as to rates
21 and service, or by any two or more such common carriers, (~~((shall))~~) must
22 be just, fair, reasonable, and sufficient.

23 Every common carrier shall construct, furnish, maintain and
24 provide, safe, adequate, and sufficient service facilities (~~((, trackage,~~
25 ~~sidings, railroad connections, industrial and commercial spurs))~~) and
26 equipment to enable it to promptly, expeditiously, safely, and properly
27 receive, transport, and deliver all persons or property offered to or
28 received by it for transportation, and to promote the safety, health,
29 comfort, and convenience of its patrons, employees, and the public.

30 All rules and regulations issued by any such common carrier
31 affecting or pertaining to the transportation of persons or property
32 (~~((shall))~~) must be just and reasonable.

33 **Sec. 23.** RCW 81.28.020 and 1961 c 14 s 81.28.020 are each amended
34 to read as follows:

35 Every common carrier subject to regulation by the commission as to
36 rates and service shall under reasonable rules and regulations promptly

1 and expeditiously receive, transport, and deliver all persons or
2 property offered to or received by it for transportation. (~~All~~
3 ~~persons receiving cars for loading shall promptly and expeditiously~~
4 ~~load the same, and all persons receiving property shall promptly and~~
5 ~~expeditiously receive and remove the same from the cars and freight~~
6 ~~rooms.~~)

7 **Sec. 24.** RCW 81.28.030 and 1961 c 14 s 81.28.030 are each amended
8 to read as follows:

9 All (~~transportation companies~~) common carriers subject to
10 regulation by the commission as to rates and service and doing business
11 wholly (~~or in part~~) within this state shall, upon receipt of any
12 article of freight, promptly forward the same to its marked
13 destination, by the route directed by the shipper, or if no directions
14 are given by shipper, then to any connecting company whose line or
15 route reaches nearest to the point to which such freight is marked.

16 Any (~~transportation company~~) such common carrier failing to
17 comply with this section (~~shall be~~) is liable for any damages that
18 may be sustained, either to the shipper or consignee, from any cause,
19 upon proof that (~~said~~) the damages resulted (~~on account of~~) from a
20 failure of the transportation company to comply with this section.

21 Suit for damages may be instituted either at the place of shipping
22 or destination, either by the shipper or consignee, and before any
23 court competent and qualified to hear and determine like causes between
24 (~~individuals resident of~~) persons who reside in the court's district
25 (~~in which said court is holding~~).

26 **Sec. 25.** RCW 81.28.040 and 1984 c 143 s 4 are each amended to read
27 as follows:

28 Every common carrier subject to regulation by the commission as to
29 rates and service shall file with the commission and shall print and
30 keep open for public inspection, schedules showing the rates, fares,
31 charges, and classification for the transportation of persons and
32 property within the state between each point upon the carrier's route
33 and all other points thereon; and between each point upon its route and
34 all points upon every route leased, operated, or controlled by it; and
35 between each point on its route or upon any route leased, operated, or
36 controlled by it and all points upon the route of any other common

1 carrier, whenever a through route and joint rate have been established
2 or ordered between any two such points. If no joint rate over a
3 through route has been established, the several carriers participating
4 in the through route shall file, print, and keep open for public
5 inspection, the separately established rates, fares, charges, and
6 classifications that apply to the through transportation. The
7 schedules printed (~~shall~~) must: Plainly state the places between
8 which property and persons (~~will be~~) are carried(~~, shall also~~);
9 contain classification of passengers or property in force(~~, and shall~~
10 ~~also~~); and state separately all terminal charges, storage charges,
11 icing charges, (~~and~~) all other charges that the commission may
12 require to be stated, all privileges or facilities granted or allowed,
13 and any rules or regulations that may in any way change, affect, or
14 determine any part, or the aggregate of, such rates, fares, and
15 charges, or the value of the service rendered to the passenger,
16 shipper, or consignee. The schedule (~~shall~~) must be plainly printed
17 in large type, and a copy of it shall be kept by every carrier readily
18 accessible to inspection by the public in every station or office of
19 the carrier where passengers or property are respectively received for
20 transportation, when the station or office is in charge of any agent.
21 All (~~or any~~) of the schedules kept as provided in this section
22 (~~shall~~) must be immediately produced by the carrier for inspection
23 upon the demand of any person. A notice printed in bold type and
24 stating that the schedules are on file with the agent and open to
25 inspection by any person and that the agent will assist any person to
26 determine from the schedules any transportation rates or fares or rules
27 or regulations that are in force (~~shall~~) must be kept posted by the
28 carrier in two public and conspicuous places in every such station or
29 office. The form of each schedule (~~shall~~) must be prescribed by the
30 commission.

31 The commission (~~has power~~) may, from time to time, (~~to~~)
32 determine and prescribe by order such changes in the form of the
33 schedules as may be found expedient, and (~~to~~) modify the requirements
34 of this section in respect to publishing, posting, and filing of
35 schedules either in particular instances or by general rule or order
36 applicable to special or peculiar circumstances or conditions.

37 The commission may(~~, in its discretion,~~) suspend the operation of
38 this section in whole or in part as applied to vessels engaged in

1 jobbing business not operating on regular routes. (~~This section does~~
2 ~~not apply to rail transportation contracts regulated by RCW 81.34.070~~
3 ~~or to railroad services or transactions exempted under RCW 81.34.110.~~)

4 **Sec. 26.** RCW 81.28.050 and 1993 c 300 s 2 are each amended to read
5 as follows:

6 Unless the commission otherwise orders, ((~~no~~)) a change may not be
7 made ((~~in~~)) to any classification, rate, fare, charge, rule, or
8 regulation filed and published by a common carrier ((~~other than a rail~~
9 ~~carrier~~)) subject to regulation by the commission as to rates and
10 service, except after thirty days' notice to the commission and to the
11 public. In the case of a solid waste collection company, ((~~no such~~))
12 a change may not be made except after forty-five days' notice to the
13 commission and to the public. The notice ((~~shall~~)) must be published
14 as provided in RCW 81.28.040 and ((~~shall~~)) must plainly state the
15 changes proposed to be made in the schedule then in force and the time
16 when the changed rate, classification, fare, or charge will go into
17 effect. All proposed changes ((~~shall~~)) must be shown by printing,
18 filing, and publishing new schedules or ((~~shall~~)) must be plainly
19 indicated upon the schedules in force at the time and kept open to
20 public inspection. ((~~In the case of a change proposed by a rail~~
21 ~~carrier, except for changes to rail contracts between a rail carrier~~
22 ~~and a shipper authorized under RCW 81.34.070, which changes become~~
23 ~~effective in accordance with that section, a proposal resulting in a~~
24 ~~rate increase or a new rate shall not become effective for twenty days~~
25 ~~after the notice is published, and a proposal resulting in a rate~~
26 ~~decrease shall not become effective for ten days after the notice is~~
27 ~~published.~~)) The commission, for good cause shown, may by order allow
28 changes in rates without requiring the notice and the publication time
29 periods specified in this section. When any change is made in any
30 rate, fare, charge, classification, rule, or regulation, attention
31 ((~~shall~~)) must be directed to the change by some character on the
32 schedule. The character and its placement ((~~shall~~)) must be designated
33 by the commission. The commission may, by order, for good cause shown,
34 allow changes in any rate, fare, charge, classification, rule, or
35 regulation without requiring any character to indicate each and every
36 change to be made.

1 **Sec. 27.** RCW 81.28.080 and 1973 1st ex.s. c 154 s 117 are each
2 amended to read as follows:

3 ~~((No))~~ (1) A common carrier subject to regulation by the commission
4 as to rates and service shall not charge, demand, collect, or receive
5 a greater or less or different compensation for transportation of
6 persons or property, or for any service in connection therewith, than
7 the rates, fares, and charges applicable to such transportation as
8 specified in its schedules filed and in effect at the time~~(; nor shall~~
9 ~~any such carrier))~~ and shall not refund or remit in any manner or by
10 any device any portion of the rates, fares, or charges so specified
11 excepting upon order of the commission as hereinafter provided, ~~((nor))~~
12 or extend to any shipper or person any privileges or facilities in the
13 transportation of passengers or property except such as are regularly
14 and uniformly extended to all persons and corporations under like
15 circumstances. ~~((No))~~ Any common carrier subject to regulation by the
16 commission as to rates and service shall not, directly or indirectly,
17 issue or give any free ticket, free pass, or free or reduced
18 transportation for passengers between points within this state, except
19 ~~((its))~~ to the carrier's employees and their families, surgeons and
20 physicians and their families, ~~((its))~~ the carrier's officers, agents,
21 and attorneys at law; to ministers of religion, traveling secretaries
22 of ~~((railroad))~~ young men's christian associations, inmates of
23 hospitals, charitable and eleemosynary institutions, and persons
24 exclusively engaged in charitable and eleemosynary work; to indigent,
25 destitute, and homeless persons ~~((and to such persons when transported~~
26 ~~by charitable societies or hospitals, and the necessary agents employed~~
27 ~~in such transportation))~~; to inmates of the national homes or state
28 homes for ~~((disabled))~~ volunteer soldiers with disabilities and of
29 soldiers' and sailors' homes, including those about to enter and those
30 returning home after discharge; to necessary caretakers of livestock,
31 poultry, milk, and fruit; ~~((to employees of sleeping car companies,~~
32 ~~express companies, and))~~ to linemen of telegraph and telephone
33 companies; to ~~((railway mail service employees,))~~ post office
34 inspectors, customs inspectors, and immigration inspectors; to
35 ~~((newsboys on trains;))~~ baggage agents~~((;))~~ and witnesses attending any
36 legal investigation in which the common carrier is interested; to
37 persons injured in accidents or wrecks and physicians and nurses
38 attending such persons; to the national guard of Washington when on

1 official duty(~~(7)~~) and students going to and returning from state
2 institutions of learning(~~(: PROVIDED, That)~~). This (~~provision shall~~
3 ~~not be construed to~~) section does not prohibit the interchange of
4 passes for the officers, attorneys, agents and employees and their
5 families, of (~~railroad companies, steamboat companies, express~~
6 ~~companies and sleeping car companies with other railroad companies,~~
7 ~~steamboat companies, express companies and sleeping car companies, nor~~
8 ~~to~~) commercial ferries or prohibit any common carrier from carrying
9 passengers free with the object of providing relief in cases of general
10 epidemic, pestilence, or other calamitous visitation(~~(: AND PROVIDED,~~
11 ~~FURTHER, That this provision shall not be construed to prohibit the~~
12 ~~exchange of passes or franks for the officers, attorneys, agents,~~
13 ~~employees, and their families of such telegraph, telephone and cable~~
14 ~~lines, and the officers, attorneys, agents, employees, and their~~
15 ~~families of other telegraph, telephone or cable lines, or with railroad~~
16 ~~companies, express companies or sleeping car companies: PROVIDED,~~
17 ~~FURTHER, That the term)~~).

18 (2) "Employee," as used in this section (~~shall~~), includes
19 furloughed, pensioned, and superannuated employees, persons who have
20 become disabled or infirm in the service of any such common carrier,
21 (~~and~~) the remains of a person killed or dying in the employment of a
22 carrier, those entering or leaving its service, and (~~ex-employees~~)
23 former employees traveling for the purpose of entering the service of
24 any such common carrier(~~(: and the term)~~).

25 (3) "Families," as used in this section (~~shall~~), includes the
26 families of those persons named in subsection (2) of this (~~proviso,~~
27 ~~also~~) section, the families of persons killed and (~~the~~) their
28 surviving spouses prior to remarriage and minor children during
29 minority, and the families of persons who died while in the service of
30 any such common carrier(~~(: AND PROVIDED, FURTHER, That)~~).

31 (4) Nothing (~~herein contained shall~~) in this section prevents the
32 issuance of mileage, commutation tickets, or excursion passenger
33 tickets(~~(: AND PROVIDED, FURTHER, That nothing in this section shall~~
34 ~~be construed to~~) or prevents the issuance of free or reduced
35 transportation by any street railroad company for mail carriers, or
36 (~~policemen~~) police officers or members of fire departments, city
37 officers, and employees when engaged in the performance of their duties
38 as (~~such~~) city employees.

1 (5) Common carriers (~~subject to the provisions of this title~~) may
2 carry, store, or handle, free or at reduced rates, property for the
3 United States, state, county, or municipal governments, (~~or~~) for
4 charitable purposes, or to or from fairs and exhibitions for exhibition
5 (~~thereat~~), and may carry, store, or handle, free or at reduced rates,
6 the household goods and personal effects of its employees (~~and~~),
7 those entering or leaving its service, and those killed or dying while
8 in its service.

9 (~~Nothing in this title shall be construed to prohibit the making
10 of a special contract providing for the mutual exchange of service
11 between any railroad company and any telegraph or telephone company,
12 where the line of such telegraph or telephone company is situated upon
13 or along the railroad right of way and used by both of such
14 companies.~~)

15 **Sec. 28.** RCW 81.28.180 and 1984 c 143 s 6 are each amended to read
16 as follows:

17 A common carrier subject to regulation by the commission as to
18 rates and service shall not, directly or indirectly, by any special
19 rate, rebate, drawback, or other device or method, charge, demand,
20 collect, or receive from any person or corporation a greater or lesser
21 compensation for any service rendered or to be rendered in the
22 transportation of persons or property, except as authorized in this
23 title, than it charges, demands, collects, or receives from any person
24 or corporation for doing a like and contemporaneous service in the
25 transportation of a like kind of traffic under the same or
26 substantially similar circumstances and conditions. (~~This section
27 does not apply to railroad companies, which shall be regulated in this
28 regard by chapter 81.34 RCW and rules adopted thereunder.~~)

29 **Sec. 29.** RCW 81.28.190 and 1984 c 143 s 7 are each amended to read
30 as follows:

31 A common carrier subject to regulation by the commission as to
32 rates and service shall not make or give any undue or unreasonable
33 preference or advantage to any person (~~or~~), corporation (~~or to~~
34 ~~any~~), locality, or (~~to any~~) particular description of traffic in any
35 respect whatsoever, or subject any particular person (~~or~~),
36 corporation (~~or~~), locality, or (~~any~~) particular description of

1 traffic, to any undue or unreasonable prejudice or disadvantage in any
2 respect whatsoever. ~~((This section does not apply to railroad
3 companies, which shall be regulated in this regard by chapter 81.34 RCW
4 and rules adopted thereunder.))~~

5 **Sec. 30.** RCW 81.28.200 and 1984 c 143 s 8 are each amended to read
6 as follows:

7 A common carrier, subject to ~~((the provisions of))~~ regulation by
8 the commission as to rates and service and this title, shall not charge
9 or receive any greater compensation in the aggregate for the
10 transportation of persons or ~~((of))~~ a like kind of property~~((r))~~ for a
11 shorter distance than for a longer distance over the same line in the
12 same direction, the shorter distance being included within the longer
13 distance, or to charge any greater compensation as a through rate than
14 the aggregate of the intermediate rates~~((r))~~ subject to ~~((the
15 provisions of))~~ this title. ~~((This shall not be construed as
16 authorizing any such))~~ The common carriers ~~((to))~~ may not charge and
17 receive as great a compensation for a shorter as for a longer distance
18 or haul. Upon the application of a common carrier, the commission may
19 by order authorize ~~((it))~~ the common carrier to charge less for a
20 longer distance than for a shorter distance for the transportation of
21 persons or property in special cases after investigation by the
22 commission, but the order must specify and prescribe the extent to
23 which the common carrier making the application is relieved from the
24 operation of this section. Only to the extent so specified and
25 prescribed is any common carrier relieved from the operation and
26 requirements of this section. ~~((This section does not apply to
27 railroad companies, which shall be regulated in this regard by chapter
28 81.34 RCW and rules adopted thereunder.))~~

29 **Sec. 31.** RCW 81.28.210 and 1961 c 14 s 81.28.210 are each amended
30 to read as follows:

31 ~~((No))~~ (1) A common carrier subject to regulation by the commission
32 as to rates and service, or any officer or agent thereof, or any person
33 acting for or employed by ~~((it))~~ the common carrier, shall not assist,
34 suffer, or permit any person or corporation to obtain transportation
35 for any person or property between points within this state at less
36 than the rates then established and in force in accordance with the

1 schedules filed and published (~~in accordance with the provisions of~~)
2 under this title, by (~~means of~~) false billing, false classification,
3 false weight or weighing, or false report of weight, or by any other
4 device or means. (~~No~~) Any person, corporation, or any officer,
5 agent, or employee of a corporation, who (~~shall~~) delivers property
6 for transportation within the state to a common carrier, shall not seek
7 to obtain or obtain such transportation for such property at less than
8 the rates then established and in force (~~therefor, as aforesaid~~), by
9 false billing, false or incorrect classification, false weight or
10 weighing, false representation of the contents or substance of a
11 package, or false report or statement of weight, or by any device or
12 means, whether with or without the consent or connivance of a common
13 carrier or any of its officers, agents, or employees.

14 (~~No~~) (2) A person, corporation, or any officer, agent, or
15 employee(~~of~~) of a corporation, shall not knowingly or wilfully,
16 directly or indirectly, by false statement or representation as to the
17 cost, value, nature, or extent of injury, or by the use of any false
18 billing, bill of lading, receipt, voucher, roll, account, claim,
19 certificate, affidavit, or deposition, knowing the same to be false,
20 fictitious, or fraudulent, or to upon any false, fictitious, or
21 fraudulent statement or entry, obtain or attempt to obtain any
22 allowance, rebate, or payment for damage, or otherwise, in connection
23 with or growing out of the transportation of persons or property, or
24 agreement to transport such persons or property, whether with or
25 without the consent or connivance of such common carrier or any of its
26 officers, agents, or employees, (~~whereby~~) when the compensation of
27 such carrier for such transportation (~~shall be in fact made~~) is less
28 than the rates then established and in force (~~therefor~~).

29 (~~No~~) (3) A person, corporation, or any officer, agent, or
30 employee of a corporation, who (~~shall~~) delivers property for
31 transportation within the state to a common carrier, shall not seek to
32 obtain or obtain such transportation by any false representation(~~of~~)
33 or false statement of false paper or token as to the contents or
34 substance thereof, (~~where~~) when the transportation of such property
35 is prohibited by law.

36 **Sec. 32.** RCW 81.28.220 and 1961 c 14 s 81.28.220 are each amended
37 to read as follows:

1 The attorney general of the state of Washington (~~is authorized and~~
2 ~~directed~~) shall, whenever he or she has reasonable grounds to believe
3 that any person, firm, or corporation has knowingly accepted or
4 received from any carriers of persons or property subject to the
5 jurisdiction of the commission, either directly or indirectly, any
6 unlawful rebate, discount, deduction, concession, refund, or remittance
7 from the rates or charges filed and open to public inspection as
8 provided for in the public service laws of this state, (~~to~~) prosecute
9 a civil action in the name of the people of the state of Washington in
10 the superior court of Thurston county to collect three times the total
11 sum of such rebates, discounts, deductions, concessions, refunds, or
12 remittances so accepted or received within three years prior to the
13 commencement of such action.

14 All penalties imposed under the provisions of this section shall be
15 paid to the state treasurer and by him or her deposited in the public
16 service revolving fund.

17 **Sec. 33.** RCW 81.28.230 and 1984 c 143 s 9 are each amended to read
18 as follows:

19 Whenever the commission finds, after a hearing had upon its own
20 motion or upon complaint, as provided in this chapter, that the rates,
21 fares, or charges demanded, exacted, charged, or collected by any
22 common carrier subject to regulation by the commission as to rates and
23 service for the transportation of persons or property within the state
24 or in connection therewith, or that the regulations or practices of the
25 common carrier affecting those rates are unjust, unreasonable, unjustly
26 discriminatory, or unduly preferential, or in any way are in violation
27 of the provisions of law, or that the rates, fares, or charges are
28 insufficient to yield a reasonable compensation for the service
29 rendered, the commission shall determine and fix by order the just,
30 reasonable, or sufficient rates, fares, or charges, or the regulations
31 or practices to be thereafter observed and enforced. (~~This section~~
32 ~~does not apply to railroad companies, which shall be regulated in this~~
33 ~~regard by chapter 81.34 RCW and rules adopted thereunder.))~~

34 **Sec. 34.** RCW 81.28.250 and 1961 c 14 s 81.28.250 are each amended
35 to read as follows:

36 The commission shall (~~have power, and it is hereby made its duty,~~

1 ~~to~~) investigate all interstate, rates, fares, charges,
2 classifications, or rules or practices in relation ~~((thereto, for or in~~
3 ~~relation))~~ to the transportation of persons or property ~~((where any act~~
4 ~~in relation thereto shall take place))~~ within this state, and ~~((when~~
5 ~~the same are, in the opinion of))~~ if the commission~~((r))~~ determines
6 that these rates, fares, charges, classification, or rules or practices
7 are excessive or discriminatory, or are ~~((levied or laid))~~ applied in
8 violation of the act of congress entitled "An act to regulate
9 commerce," approved February 4, 1887, ~~((and the acts amendatory thereof~~
10 ~~and supplementary thereto))~~ as amended or supplemented, or in conflict
11 with the rulings, orders, or regulations of the ~~((interstate commerce~~
12 ~~commission))~~ applicable federal regulatory agency, the commission shall
13 apply, by petition, to the ~~((interstate commerce commission))~~
14 applicable federal regulatory agency for relief, and may present to the
15 ~~((interstate commerce commission))~~ agency all facts ~~((coming to its~~
16 ~~knowledge as to))~~ concerning violations of the rulings, orders, or
17 regulations of that ~~((commission))~~ agency, or ~~((as to))~~ violations of
18 the ~~((said))~~ act to regulate commerce ~~((or acts amendatory thereof or~~
19 ~~supplementary thereto))~~ as amended or supplemented.

20 **Sec. 35.** RCW 81.28.260 and 1961 c 14 s 81.28.260 are each amended
21 to read as follows:

22 Bicycles ~~((are hereby declared to be and are deemed baggage, and~~
23 ~~shall))~~ must be transported as baggage for passengers by ~~((railroad~~
24 ~~corporations and steamboats,))~~ commercial ferries and are subject to
25 the same liabilities as other baggage~~((; and no such)).~~ A passenger
26 ~~((shall be))~~ is not required to crate, cover, or otherwise protect any
27 ~~((such))~~ bicycle~~((; PROVIDED, That a railroad corporation or steamboat~~
28 ~~shall)).~~ A commercial ferry is not ~~((be))~~ required to transport
29 ~~((under the provisions of this section))~~ more than one bicycle for one
30 person.

31 **Sec. 36.** RCW 81.29.010 and 1961 c 14 s 81.29.010 are each amended
32 to read as follows:

33 ~~((The term))~~ "Common carrier," as used in this chapter ~~((shall~~
34 ~~include every individual, firm, copartnership, association or~~
35 ~~corporation, or their lessees, trustees or receivers, engaged in the~~

1 ~~transportation of property for the public for hire, whether by rail,~~
2 ~~water, motor vehicle, air or otherwise)), means every common carrier~~
3 ~~subject to regulation by the commission as to rates and service.~~

4 **Sec. 37.** RCW 81.29.020 and 1982 c 83 s 1 are each amended to read
5 as follows:

6 (1) Any common carrier subject to regulation by the commission as
7 to rates and service, receiving property for transportation wholly
8 within the state of Washington from one point in the state of
9 Washington to another point in the state of Washington, shall issue a
10 receipt or bill of lading ~~((therefor,))~~ and ~~((shall be))~~ is liable to
11 the lawful holder thereof for any loss, damage, or injury to such
12 property caused by it, or by any common carrier to which such property
13 may be delivered, or over whose line or lines such property may pass
14 when transported on a through bill of lading, and ~~((no))~~ a contract,
15 receipt, rule, regulation, or other limitation of any character
16 ~~((whatsoever)), ((shall))~~ does not exempt such common carrier from the
17 liability imposed; and any such common carrier ~~((so))~~ receiving
18 property for transportation wholly within the state of Washington, or
19 any common carrier delivering ~~((said))~~ property ~~((so))~~ received and
20 transported, ~~((shall be))~~ is liable to the lawful holder of ~~((said))~~
21 the receipt or bill of lading, or to any party entitled to recover
22 thereon, whether such receipt or bill of lading has been issued or not,
23 for the full actual loss, damage, or injury to such property caused by
24 it or by any such common carrier to which such property may be
25 delivered, or over whose line or lines such property may pass, when
26 transported on a through bill of lading~~((, notwithstanding)).~~ Any
27 limitation of liability ~~((or))~~ limitation of the amount of recovery,
28 or representation or agreement as to value in any such receipt or bill
29 of lading, or in any contract, rule, or regulation, or in any tariff
30 filed with the commission~~((; and any such limitation, without respect~~
31 ~~to the manner or form in which it is sought to be made,))~~ is ~~((hereby~~
32 ~~declared to be))~~ unlawful and void~~((; PROVIDED, HOWEVER, That the~~
33 ~~provisions hereof respecting)).~~

34 (2) Liability for full actual loss, damage, or injury,
35 notwithstanding any limitation of liability or recovery or
36 representation ~~((or))~~ agreement, or release as to value, and declaring
37 any such limitation to be unlawful and void, ~~((shall))~~ does not apply:

1 First, to baggage carried on (~~(passenger trains, boats,)~~) commercial
2 ferries or motor vehicles, or (~~(aircraft, or trains, boats,)~~)
3 commercial ferries or motor vehicles(~~(, or aircraft)~~) carrying
4 passengers; second, to property, (~~(except ordinary livestock received~~
5 ~~for transportation)~~) concerning which the carrier (~~(shall have been or~~
6 ~~shall be)~~) is expressly authorized or required by order of the
7 commission, to establish and maintain rates dependent upon the value
8 declared in writing by the shipper or agreed upon in writing as the
9 released value of the property, in which case such declaration or
10 agreement (~~(shall have)~~) has no other effect than to limit liability
11 and recovery to an amount not exceeding the value so declared or
12 released; and any tariff schedule (~~(which)~~) that may be filed with the
13 commission pursuant to such order (~~(shall)~~) must contain specific
14 reference thereto and may establish rates varying with the value so
15 declared and agreed upon; and the commission (~~(is hereby empowered to)~~)
16 may make such order in cases where rates dependent upon and varying
17 with declared or agreed values would, in its opinion, be just and
18 reasonable under the circumstances and conditions surrounding the
19 transportation. (~~(The term "ordinary livestock" shall include all~~
20 ~~cattle, swine, sheep, goats, horses, and mules, except such as are~~
21 ~~chiefly valuable for breeding, racing, show purposes, or other special~~
22 ~~uses: PROVIDED, FURTHER, That nothing in)~~)

23 (3) This section (~~(shall)~~) does not deprive any holder of (~~(such)~~)
24 a receipt or bill of lading of any remedy or right of action which he
25 or she has under the existing law(~~(: PROVIDED, FURTHER, That)~~).

26 (4) It (~~(shall be)~~) is unlawful for any (~~(such)~~) receiving or
27 delivering common carrier to provide by rule, contract, regulation, or
28 otherwise a shorter period for the filing of claims than nine months,
29 and for the institution of suits than two years, such period for
30 institution of suits to be computed from the day when notice in writing
31 is given by the carrier to the claimant that the carrier has disallowed
32 the claim or any part or parts thereof specified in the notice(~~(: AND~~
33 ~~PROVIDED, FURTHER, That for the purposes of this section and of RCW~~
34 ~~81.29.030 the delivering carrier in the case of rail transportation~~
35 ~~shall be construed to be the carrier performing the linehaul service~~
36 ~~nearest to the point of destination, and not a carrier performing~~
37 ~~merely a switching service at the point of destination: AND PROVIDED~~
38 ~~FURTHER, That)~~).

1 (5) The liability imposed by this section (~~shall also apply in the~~
2 ~~ease of~~) applies to property reconsigned or diverted in accordance
3 with the applicable tariffs filed with the commission.

4 **Sec. 38.** RCW 81.44.010 and 1961 c 14 s 81.44.010 are each amended
5 to read as follows:

6 Whenever the commission (~~shall~~), after a hearing had upon its own
7 motion or upon complaint, finds that(~~, additional tracks, switches,~~
8 ~~terminals, terminal facilities, stations, motive power or any other~~
9 ~~property, apparatus,~~) any equipment(~~, facilities or device~~) or
10 facility for use by any common carrier in, or in connection with the
11 transportation of persons or property, ought reasonably to be provided,
12 or any repairs or improvements to, or changes in, any theretofore in
13 use ought reasonably to be made, or any additions or changes in
14 construction should reasonably be made thereto, in order to promote the
15 security or convenience of the public or employees, or in order to
16 secure adequate service or facilities for the transportation of
17 passengers or property, the commission may, after a hearing, either on
18 its own motion or after complaint, (~~make and~~) serve an order
19 directing such repairs, improvements, changes, or additions to be made.

20 **Sec. 39.** RCW 81.44.020 and 1982 c 141 s 1 are each amended to read
21 as follows:

22 If upon investigation the commission (~~shall~~) finds that the
23 equipment (~~or appliances in connection therewith, or the apparatus~~),
24 facilities, tracks, bridges, or other structures of any common carrier
25 are defective, and that the operation thereof is dangerous to the
26 employees of (~~such~~) the common carrier or to the public, it shall
27 immediately give notice to the superintendent or other officer of
28 (~~such~~) the common carrier of the repairs or reconstruction necessary
29 to place the same in a safe condition(~~, and~~). The commission may
30 also prescribe the rate of speed for trains or cars passing over
31 (~~such~~) the dangerous or defective track, bridge, or other structure
32 until the repairs or reconstruction required are made, and may also
33 prescribe the time (~~within which the same shall~~) when the repairs or
34 reconstruction must be made(~~-~~); or if, in (~~its~~) the commission's
35 opinion, it is needful or proper, (~~it~~) the commission may forbid
36 (~~the running of~~) trains or cars to run over any defective track,

1 bridge, or structure until the ~~((same be))~~ track, bridge, or structure
2 is repaired and placed in a safe condition. ~~((Failure of a))~~ Railroad
3 bridges or trestles ~~((to be equipped with))~~ without walkways and
4 handrails may be identified as an unsafe or defective condition under
5 this section after a hearing ~~((had))~~ by the commission upon complaint
6 or on its own motion. The commission, in making ~~((such))~~ the
7 determination, shall balance considerations of employee and public
8 safety with the potential for increased danger to the public resulting
9 from adding ~~((such))~~ walkways or handrails to railway bridges(~~(+~~
10 ~~PROVIDED, That))~~). A railroad company and its employees ~~((shall))~~ are
11 not ~~((be))~~ liable for injury to or death of any person occurring on or
12 about any railway bridge or trestle if ~~((such))~~ the person was not a
13 railway employee but was a trespasser or was otherwise not authorized
14 to be in the location where ~~((such))~~ the injury or death occurred.

15 ~~((There shall be no))~~ Appeal from or action to review any order of
16 the commission made under ~~((the provisions of))~~ this section is not
17 available if the commission finds that immediate compliance is
18 necessary for the protection of employees or the public.

19 **Sec. 40.** RCW 81.44.040 and 1961 c 14 s 81.44.040 are each amended
20 to read as follows:

21 ~~((Each car shall be equipped with couplers coupling automatically,~~
22 ~~which can be coupled or uncoupled without the necessity of men going~~
23 ~~between the ends of the cars, with power brakes, with proper hand~~
24 ~~brakes, sill steps and grab irons, and, where secure ladders and~~
25 ~~running boards are required, with such ladders and running boards, and~~
26 ~~all cars having ladders shall also be equipped with secure hand holds~~
27 ~~or grab irons on their roofs at the tops of such ladders, and with such~~
28 ~~other appliances necessary for the safe operation of such cars, and the~~
29 ~~trains containing such cars, as may be prescribed by the commission:~~
30 ~~PROVIDED, That in the loading and hauling of long commodities requiring~~
31 ~~more than one car, hand brakes may be omitted from all save one of the~~
32 ~~cars, while they are thus combined for such purpose:— AND PROVIDED~~
33 ~~FURTHER, That in the operation of trains not less than eighty five~~
34 ~~percent of the cars in such train, which are associated together, shall~~
35 ~~have their power brakes used and operated by the engineer of the~~
36 ~~locomotive drawing such train.))~~

1 Every street car (~~shall~~) must be equipped with proper and
2 efficient brakes, steps, grab irons or hand rails, fenders or aprons or
3 pilots, and with such other appliances, apparatus, and machinery
4 necessary for the safe operation of (~~such~~) the street car as the
5 commission may prescribe.

6 **Sec. 41.** RCW 81.61.020 and 1977 ex.s. c 2 s 2 are each amended to
7 read as follows:

8 The utilities and transportation commission shall adopt (~~such~~)
9 rules and orders (~~as are~~) necessary to (~~insure~~) ensure that every
10 passenger-carrying vehicle provided by a railroad company to transport
11 employees in the course of their employment (~~shall be~~) is maintained
12 and operated in a safe manner (~~whether~~) when it is used on a public
13 or private road (~~or railroad~~). (~~Such~~) The rules and orders
14 (~~shall~~) must establish minimum standards for:

15 (1) The construction and mechanical equipment of the passenger-
16 carrying vehicles, including (~~coupling devices,~~) lighting devices and
17 reflectors, exhaust system, rear vision mirrors, service and parking
18 brakes, steering mechanisms, tires, warning and signaling devices,
19 windshield wipers, and heating equipment capable of maintaining a
20 reasonable temperature in passenger areas;

21 (2) The operation of passenger-carrying vehicles, including driving
22 rules, the loading and carrying of passengers, maximum daily hours of
23 service by drivers, minimum age and skill of drivers, physical
24 condition of drivers, refueling, road warning devices, and the
25 transportation of gasoline and explosives;

26 (3) The safety of passengers in a passenger-carrying vehicle,
27 including emergency exits, fire extinguishers, first aid kits,
28 facilities for communication between cab and rear compartments, means
29 of ingress and egress, side walls, canopy, (~~and~~) tail gates, or other
30 means of retaining passengers within the passenger-carrying vehicle.

31 NEW SECTION. **Sec. 42.** A new section is added to chapter 81.66 RCW
32 to read as follows:

33 This chapter applies to persons and motor vehicles engaged in
34 interstate or foreign commerce to the full extent permitted by the
35 Constitution and laws of the United States.

1 It is unlawful for any motor carrier to perform a transportation
2 service for compensation upon the public highways of this state without
3 first having secured appropriate federal authority from the United
4 States department of transportation, if such authority is required, and
5 without first having registered with the commission either directly or
6 through a federally authorized uniform registration program.

7 **Sec. 43.** RCW 81.66.040 and 1979 c 111 s 7 are each amended to read
8 as follows:

9 ~~((No))~~ A private, nonprofit transportation provider may not operate
10 in this state without first having obtained from the commission under
11 ~~((the provisions of))~~ this chapter a certificate ~~((, but a certificate
12 shall be granted to any private, nonprofit transportation provider
13 holding an auto transportation company certificate on September 1,
14 1979, upon surrender of the auto transportation company certificate))~~.
15 Any right, privilege, or certificate held, owned, or obtained by a
16 private, nonprofit transportation provider may be sold, assigned,
17 leased, transferred, or inherited as other property only upon
18 authorization by the commission. The commission shall issue a
19 certificate to any person or corporation who files an application, in
20 a form to be determined by the commission, which sets forth:

- 21 (1) Satisfactory proof of its status as a private, nonprofit
22 corporation;
- 23 (2) The kind of service to be provided;
- 24 (3) The number and type of vehicles to be operated, together with
25 satisfactory proof that the vehicles are adequate for the proposed
26 service and that drivers of such vehicles will be adequately trained
27 and qualified;
- 28 (4) ~~((Any proposed rates, fares, or charges;~~
29 ~~+5))~~ Satisfactory proof of insurance or surety bond, in accordance
30 with RCW 81.66.050.

31 The commission may deny a certificate to a provider who does not meet
32 the requirements of this section. Each vehicle of a private, nonprofit
33 transportation provider ~~((shall))~~ must carry a copy of the provider's
34 certificate.

35 **Sec. 44.** RCW 81.66.060 and 2005 c 121 s 1 are each amended to read
36 as follows:

1 The commission may, at any time, by its order duly entered after
2 notice to the holder of any certificate issued under this chapter, and
3 an opportunity for a hearing, at which it is proven that the holder has
4 willfully violated or refused to observe any of the commission's proper
5 orders, rules, or regulations, suspend, revoke, alter, or amend any
6 certificate issued under (~~the provisions of~~) this chapter, but the
7 holder of the certificate shall have all the rights of rehearing,
8 review, and appeal as to the order of the commission as is provided for
9 in chapter 34.05 RCW (~~81.68.070~~).

10 NEW SECTION. **Sec. 45.** A new section is added to chapter 81.68 RCW
11 to read as follows:

12 It is unlawful for any motor carrier to perform a transportation
13 service for compensation upon the public highways of this state without
14 first having secured appropriate federal authority from the United
15 States department of transportation, if such authority is required, and
16 without first having registered with the commission either directly or
17 through a federally authorized uniform registration program.

18 **Sec. 46.** RCW 81.68.010 and 1989 c 163 s 1 are each amended to read
19 as follows:

20 The definitions set forth in this section (~~shall~~) apply
21 throughout this chapter, unless the context clearly indicates
22 otherwise.

23 (1) "Corporation" means a corporation, company, association, or
24 joint stock association.

25 (2) "Person" means an individual, firm, or a copartnership.

26 (3) "Auto transportation company" means every corporation or
27 person, their lessees, trustees, receivers, or trustees appointed by
28 any court whatsoever, owning, controlling, operating, or managing any
29 motor-propelled vehicle (~~not usually operated on or over rails~~) used
30 in the business of transporting persons(~~(7)~~) and their baggage(~~(7, mail,~~
31 ~~and express)~~) on the vehicles of auto transportation companies carrying
32 passengers, for compensation over any public highway in this state
33 between fixed termini or over a regular route, and not operating
34 exclusively within the incorporated limits of any city or town.

35 (4) "Public highway" means every street, road, or highway in this
36 state.

1 (5) The words "between fixed termini or over a regular route" mean
2 the termini or route between or over which any auto transportation
3 company usually or ordinarily operates any motor-propelled vehicle,
4 even though there may be departure from the termini or route, whether
5 the departures are periodic or irregular. Whether or not any motor-
6 propelled vehicle is operated by any auto transportation company
7 "between fixed termini or over a regular route" within the meaning of
8 this section is a question of fact, and the finding of the commission
9 thereon is final and is not subject to review.

10 **Sec. 47.** RCW 81.68.015 and 1989 c 163 s 2 are each amended to read
11 as follows:

12 This chapter does not apply to corporations or persons, their
13 lessees, trustees, receivers, or trustees appointed by any court
14 whatsoever insofar as they own, control, operate, or manage taxicabs,
15 hotel buses, school buses, (~~motor propelled vehicles operated~~
16 ~~exclusively in transporting agricultural, horticultural, dairy, or~~
17 ~~other farm products from the point of production to the market,)) or
18 any other carrier that does not come within the term "auto
19 transportation company" as defined in RCW 81.68.010.~~

20 This chapter does not apply to persons operating motor vehicles
21 when operated wholly within the limits of incorporated cities or towns,
22 and for a distance not exceeding three road miles beyond the corporate
23 limits of the city or town in Washington in which the original starting
24 point of the vehicle is located, and which operation either alone or in
25 conjunction with another vehicle or vehicles is not a part of any
26 journey beyond the three-mile limit.

27 This chapter does not apply to commuter ride sharing or ride
28 sharing for (~~the elderly and the handicapped~~) persons with special
29 transportation needs in accordance with RCW 46.74.010, so long as the
30 ride-sharing operation does not compete with (~~nor~~) or infringe upon
31 comparable service actually being provided before the initiation of the
32 ride-sharing operation by an existing auto transportation company
33 certificated under this chapter.

34 **Sec. 48.** RCW 81.68.020 and 1989 c 163 s 3 are each amended to read
35 as follows:

36 (~~No~~) A corporation or person, their lessees, trustees, or

1 receivers or trustees appointed by any court whatsoever, may not engage
2 in the business of operating as a common carrier any motor-propelled
3 vehicle for the transportation of persons((~~τ~~)) and their baggage((~~τ~~
4 ~~mail, and express~~)) on the vehicles of auto transportation companies
5 carrying passengers, between fixed termini or over a regular route for
6 compensation on any public highway in this state, except in accordance
7 with ((~~the provisions of~~)) this chapter.

8 **Sec. 49.** RCW 81.68.040 and 2005 c 121 s 3 are each amended to read
9 as follows:

10 ((~~No~~)) An auto transportation company shall not operate for the
11 transportation of persons((~~τ~~)) and their baggage((~~τ~~, ~~mail and express on~~
12 ~~the vehicles of auto transportation companies carrying passengers,~~))
13 for compensation between fixed termini or over a regular route in this
14 state, without first having obtained from the commission under ((~~the~~
15 ~~provisions of~~)) this chapter a certificate declaring that public
16 convenience and necessity require such operation((~~; but a certificate~~
17 ~~shall be granted when it appears to the satisfaction of the commission~~
18 ~~that such person, firm or corporation was actually operating in good~~
19 ~~faith, over the route for which such certificate shall be sought on~~
20 ~~January 15, 1921~~)). Any right, privilege, certificate held, owned, or
21 obtained by an auto transportation company may be sold, assigned,
22 leased, transferred, or inherited as other property, only ((~~upon~~
23 ~~authorization~~)) if authorized by the commission. The commission
24 ((~~shall have power~~)) may, after notice and an opportunity for a
25 hearing, when the applicant requests a certificate to operate in a
26 territory already served by a certificate holder under this chapter,
27 only when the existing auto transportation company or companies serving
28 such territory will not provide the same to the satisfaction of the
29 commission, or when the existing auto transportation company does not
30 object, and in all other cases with or without hearing, ((~~to~~)) issue
31 ((~~said~~)) the certificate as prayed for; or for good cause shown ((~~to~~)),
32 may refuse to issue same, or ((~~to~~)) issue it for the partial exercise
33 only of ((~~said~~)) the privilege sought, and may attach to the exercise
34 of the rights granted by ((~~said~~)) the certificate to such terms and
35 conditions as, in its judgment, the public convenience and necessity
36 may require.

1 **Sec. 50.** RCW 81.68.060 and 1989 c 163 s 5 are each amended to read
2 as follows:

3 In granting certificates to operate any auto transportation
4 company, for transporting for compensation persons and their baggage(~~(~~
5 ~~mail, and express)~~) on the vehicles of auto transportation companies
6 carrying passengers, the commission shall require the owner or operator
7 to first procure liability and property damage insurance from a company
8 licensed to make liability insurance in the state of Washington or a
9 surety bond of a company licensed to write surety bonds in the state of
10 Washington on each motor-propelled vehicle used or to be used in
11 transporting persons for compensation, in ~~((the))~~ an amount of ~~((not))~~
12 no less than one hundred thousand dollars for any recovery for personal
13 injury by one person ~~((and not))~~, no less than three hundred thousand
14 dollars for any vehicle having a capacity of sixteen passengers or less
15 ~~((and not))~~, no less than five hundred thousand dollars for any vehicle
16 having a capacity of seventeen passengers or more for all persons
17 receiving personal injury by reason of at least one act of negligence,
18 and ~~((not))~~ no less than fifty thousand dollars for damage to property
19 of any person other than the ~~((assured))~~ insured. The commission shall
20 fix the amount of the insurance policy or policies or security deposit
21 by giving due consideration to the character and amount of traffic, the
22 number of persons affected, and the degree of danger that the proposed
23 operation involves. The liability and property damage insurance or
24 surety bond ~~((shall))~~ must be maintained in force on ~~((the))~~ the
25 motor-propelled vehicle while ~~((so used))~~ in use, and each policy for
26 liability or property damage insurance or surety bond required by this
27 section ~~((shall))~~ must be filed with the commission and kept in full
28 force and effect. Failure ~~((so))~~ to ~~((do))~~ file and maintain the
29 required insurance is cause for the revocation of the certificate.

30 **Sec. 51.** RCW 81.68.065 and 1961 c 14 s 81.68.065 are each amended
31 to read as follows:

32 Any auto transportation company ~~((now or hereafter))~~ authorized to
33 transport persons for compensation on the highways and engaging in
34 interstate, or interstate and intrastate, operations within the state
35 of Washington which is or becomes qualified as a self-insurer with the
36 ~~((interstate commerce commission))~~ federal motor carrier safety
37 administration of the United States ~~((in accordance with the provisions~~

1 ~~of~~) department of transportation under the United States interstate
2 commerce act applicable to self insurance by motor carriers, (~~shall~~
3 ~~be~~) is exempt, so long as such qualification remains effective, from
4 all provisions of law relating to the carrying or filing of insurance
5 policies or bonds in connection with such operations.

6 The commission may require (~~proof of~~) auto transportation
7 companies to prove the existence and continuation of such qualification
8 with the (~~interstate commerce commission to be made~~) federal motor
9 carrier safety administration by affidavit (~~of the auto transportation~~
10 ~~company,~~) in (~~such~~) any form (~~as~~) the commission (~~shall~~)
11 prescribes.

12 **Sec. 52.** RCW 81.68.080 and 2003 c 53 s 398 are each amended to
13 read as follows:

14 (~~(1) Except as otherwise provided in this section,~~) Every
15 officer, agent, or employee of any corporation, and every other person
16 who violates or fails to comply with, or who procures, aids, or abets
17 in the violation of any provisions of this chapter, or who fails to
18 obey, observe, or comply with any order, decision, rule or regulation,
19 direction, demand, or requirement, or any part of provision thereof, is
20 guilty of a gross misdemeanor.

21 (~~(2)(a) Except as provided in (b) of this subsection, violation of~~
22 ~~such an order, decision, rule or regulation, direction, demand, or~~
23 ~~requirement relating to traffic including parking, standing, stopping,~~
24 ~~and pedestrian offenses is a traffic infraction.~~

25 (~~(b) Violation of such an order, decision, rule or regulation,~~
26 ~~direction, demand, or requirement equivalent to those provisions of~~
27 ~~Title 46 RCW set forth in RCW 46.63.020 is a misdemeanor.))~~

28 **Sec. 53.** RCW 81.68.090 and 1961 c 14 s 81.68.090 are each amended
29 to read as follows:

30 (~~(Neither this chapter nor any provision thereof shall apply or be~~
31 ~~construed to apply to commerce with foreign nations or commerce among~~
32 ~~the several states of this union except insofar as the same may be~~
33 ~~permitted under the provisions of the Constitution of the United States~~
34 ~~and the acts of congress.)) This chapter applies to persons and motor
35 vehicles engaged in interstate or foreign commerce to the full extent
36 permitted by the Constitution and laws of the United States.~~

1 NEW SECTION. **Sec. 54.** A new section is added to chapter 81.70 RCW
2 to read as follows:

3 It is unlawful for any motor carrier to perform a transportation
4 service for compensation upon the public highways of this state without
5 first having secured appropriate federal authority from the United
6 States department of transportation, if such authority is required, and
7 without first having registered with the commission either directly or
8 through a federally authorized uniform registration program.

9 **Sec. 55.** RCW 81.70.020 and 1989 c 163 s 6 are each amended to read
10 as follows:

11 Unless the context otherwise requires, the definitions and general
12 provisions (~~((set—forth))~~) in this section (~~((shall))~~) govern the
13 construction of this chapter:

14 (1) "Commission" means the Washington utilities and transportation
15 commission;

16 (2) "Person or persons" means an individual, a corporation,
17 association, joint stock association, and partnership, their lessees,
18 trustees, or receivers;

19 (3) "Public highway" includes every public street, road, or highway
20 in this state;

21 (4) "Motor vehicle" means every self-propelled vehicle with seating
22 capacity for seven or more persons, excluding the driver;

23 (5) Subject to the exclusions of RCW 81.70.030, "charter party
24 carrier (~~((of—passengers))~~)" means every person engaged in the
25 transportation over any public highways in this state of a group of
26 persons, who, pursuant to a common purpose and under a single contract,
27 (~~((have—acquired))~~) acquire the use of a motor (~~((bus))~~) vehicle to travel
28 together as a group to a specified destination or for a particular
29 itinerary, either agreed upon in advance or modified by the chartered
30 group after (~~((having—left))~~) leaving the place of origin(~~((—))~~);

31 (6) Subject to the exclusion of RCW 81.70.030, "excursion service
32 carrier" means every person engaged in the transportation of persons
33 for compensation over any public highway in this state from points of
34 origin within the incorporated limits of any city or town or area, to
35 any other location within the state of Washington and returning to that
36 origin. The service (~~((shall))~~) must not pick up or drop off passengers
37 after leaving and before returning to the area of origin. The

1 excursions may (~~or may not~~) be regularly scheduled. Compensation for
2 the transportation offered or afforded (~~shall~~) must be computed,
3 charged, or assessed by the excursion service company on an individual
4 fare basis.

5 **Sec. 56.** RCW 81.70.030 and 1989 c 283 s 17 are each amended to
6 read as follows:

7 (~~Provisions of~~) This chapter (~~do~~) does not apply to:

8 (1) Persons operating motor vehicles wholly within the limits of
9 incorporated cities;

10 (2) Persons or their lessees, receivers, or trustees insofar as
11 they own, control, operate, or manage taxicabs, hotel buses, or school
12 buses, when operated as such;

13 (3) Passenger vehicles carrying passengers on a noncommercial
14 enterprise basis; or

15 (4) (~~Operators of charter boats operating on waters within or~~
16 ~~bordering this state; or~~

17 ~~(5)~~) Limousine charter party carriers of passengers under chapter
18 (~~81.90~~) 46.72A RCW.

19 **Sec. 57.** RCW 81.70.230 and 1988 c 30 s 3 are each amended to read
20 as follows:

21 (1) Applications for certificates (~~shall~~) must be made to the
22 commission in writing, verified under oath, and shall be in (~~such~~) a
23 form and contain (~~such~~) information as the commission by regulation
24 may require. Every (~~such~~) application (~~shall~~) must be accompanied
25 by a fee as the commission may prescribe by rule.

26 (2) A certificate (~~shall~~) must be issued to any (~~qualified~~)
27 applicant (~~authorizing, in whole or in part, the operations covered by~~
28 ~~the application if it is found that the applicant is fit, willing, and~~
29 ~~able to perform properly the service and to conform to the provisions~~
30 ~~of this chapter and the rules and regulations of the commission.~~

31 ~~(3) Before a certificate is issued, the commission shall require~~
32 ~~the applicant to establish safety fitness and proof of minimum~~
33 ~~financial responsibility as provided in this chapter)~~ who establishes
34 proof of safety fitness and insurance coverage under this chapter.

1 **Sec. 58.** RCW 81.70.250 and 1989 c 163 s 8 are each amended to read
2 as follows:

3 The commission may cancel, revoke, or suspend any certificate
4 issued under this chapter on any of the following grounds:

5 (1) The violation of any of the provisions of this chapter;

6 (2) The violation of an order, decision, rule, regulation, or
7 requirement established by the commission (~~(pursuant to)~~) under this
8 chapter;

9 (3) Failure of a charter party carrier or excursion service carrier
10 of passengers to pay a fee, under this chapter, imposed on the carrier
11 within the time required by law; or

12 (4) Failure of a charter party carrier or excursion service carrier
13 to maintain required insurance coverage in full force and effect (~~(; or~~

14 ~~(5) Failure of the certificate holder to operate and perform~~
15 ~~reasonable service)).~~

16 **Sec. 59.** RCW 81.70.280 and 1989 c 163 s 11 are each amended to
17 read as follows:

18 (1) In (~~(granting)~~) issuing certificates under this chapter, the
19 commission shall require charter party carriers and excursion service
20 carriers (~~(of passengers)~~) to procure and continue in effect during the
21 life of the certificate, liability and property damage insurance from
22 a company licensed to make liability insurance in the state of
23 Washington or a surety bond of a company licensed to write surety bonds
24 in the state of Washington on each motor-propelled vehicle used or to
25 be used in transporting persons for compensation, in the following
26 amounts:

27 (a) Not less than one hundred thousand dollars for any recovery for
28 personal injury by one person; and

29 (b) Not less than three hundred thousand dollars for any vehicle
30 having a capacity of sixteen passengers or less; and

31 (c) Not less than five hundred thousand dollars for any vehicle
32 having a capacity of seventeen passengers or more for all receiving
33 personal injury by (~~(reason of)~~) at least one act of negligence; and

34 (d) Not less than fifty thousand dollars for damage to property of
35 any person other than the insured.

36 (2) The commission shall fix the amount of the insurance policy or
37 policies or security deposit by giving consideration to the character

1 and amount of traffic, the number of persons affected, and the degree
2 of danger which the proposed operation involves. ~~((Such))~~ The
3 liability and property damage insurance or surety bond ~~((shall))~~ must
4 be maintained in force on each motor-propelled vehicle while ~~((se~~
5 ~~used))~~ in use. Each policy for liability or property damage insurance
6 or surety bond required ~~((herein shall))~~ by this section must be filed
7 with the commission and kept in effect ~~((and a)).~~ Failure ~~((so))~~ to
8 ~~((do))~~ file and maintain the required insurance is cause for the
9 revocation of the certificate.

10 **Sec. 60.** RCW 81.70.290 and 1989 c 163 s 12 are each amended to
11 read as follows:

12 A charter party carrier or excursion service carrier of passengers,
13 authorized to transport persons for compensation on the highways and
14 engaging in interstate, or interstate and intrastate, operations within
15 the state of Washington which is or becomes qualified as a self-insurer
16 with the ~~((interstate commerce commission))~~ federal motor carrier
17 safety administration of the United States department of transportation
18 in accordance with the United States interstate commerce act applicable
19 to self-insurance by motor carriers, is exempt from RCW 81.70.280
20 relating to the carrying or filing of insurance policies or bonds in
21 connection with ~~((such))~~ carrier operations as long as ~~((such))~~ the
22 qualification remains effective.

23 The commission may require ~~((proof of))~~ the charter party carrier
24 or excursion service carrier to prove the existence and continuation of
25 qualification with the ~~((interstate commerce commission to be made))~~
26 federal motor carrier safety administration by affidavit ~~((of the~~
27 ~~charter party carrier or excursion service carrier))~~ in a form the
28 commission may prescribe.

29 **Sec. 61.** RCW 81.70.320 and 1989 c 163 s 13 are each amended to
30 read as follows:

31 (1) An application for a certificate ~~((or))~~,
32 of a certificate, or ~~((application to sell, lease, mortgage, or))~~
33 transfer of a certificate~~((, shall))~~ must be accompanied by ~~((such))~~ a
34 filing fee~~((s as))~~ the commission may prescribe by rule~~((, however))~~.
35 The fee ~~((shall))~~ must not exceed two hundred dollars.

1 (2) All fees paid to the commission under this chapter (~~shall~~)
2 must be deposited in the state treasury to the credit of the public
3 service revolving fund.

4 (3) It is the intent of the legislature that all fees collected
5 under this chapter (~~shall~~) must reasonably approximate the cost of
6 supervising and regulating charter party carriers and excursion service
7 carriers subject thereto, and to that end the commission (~~is~~
8 ~~authorized to~~) may decrease the schedule of fees provided for in RCW
9 81.70.350 by general order entered before November 1st of any year in
10 which the commission determines that the moneys, then in the charter
11 party carrier and excursion service carrier account of the public
12 service revolving fund, and the fees currently (~~to be paid~~) owed will
13 exceed the reasonable cost of supervising and regulating such carriers
14 during the succeeding calendar year. Whenever the cost accounting
15 records of the commission indicate that the schedule of fees previously
16 reduced should be increased, (~~such~~) the increase, not (~~in any~~
17 ~~event~~) to exceed the schedule set forth in this chapter, may be
18 effected by a similar general order entered before November 1st of any
19 calendar year.

20 **Sec. 62.** RCW 81.70.330 and 1989 c 163 s 14 are each amended to
21 read as follows:

22 (1) It is unlawful for a charter party carrier or excursion service
23 carrier to operate a motor (~~bus~~) vehicle upon the highways of this
24 state unless there is firmly affixed to both sides of the vehicle (~~on~~
25 ~~both sides thereof~~), the name of the carrier and the certificate or
26 permit number of (~~such~~) the carrier. The characters composing
27 (~~such~~) the identification (~~shall~~) must be of sufficient size to be
28 clearly distinguishable at a distance of at least fifty feet from the
29 vehicle.

30 (2) A charter party carrier or excursion service carrier holding
31 both intrastate and interstate authority may identify its vehicles with
32 either the commission permit number or the federal vehicle marking
33 requirement established by the United States department of
34 transportation for interstate motor carriers.

35 **Sec. 63.** RCW 81.70.340 and 1989 c 163 s 15 are each amended to
36 read as follows:

1 ~~((It is unlawful for a charter party carrier or excursion service~~
2 ~~carrier of passengers engaged in interstate or foreign commerce to use~~
3 ~~any of the public highways of this state for the transportation of~~
4 ~~passengers in interstate or foreign commerce, unless such carrier has~~
5 ~~identified its vehicles and registered its interstate or foreign~~
6 ~~operations with the commission. Interstate and foreign carriers~~
7 ~~possessing operating authority issued by the interstate commerce~~
8 ~~commission shall register such authority pursuant to Public Law 89-170,~~
9 ~~as amended, and the regulations of the interstate commerce commission~~
10 ~~adopted thereunder. Interstate and foreign charter party carriers and~~
11 ~~excursion service carriers of passengers exempt from regulation by the~~
12 ~~interstate commerce commission shall register their interstate~~
13 ~~operations under regulations adopted by the commission, which shall, to~~
14 ~~the maximum extent practical, conform to the regulations promulgated by~~
15 ~~the interstate commerce commission under Public Law 89-170, as amended.~~
16 ~~All other provisions of)) This chapter ((shall be applicable)) applies~~
17 ~~to persons and motor carriers ((of passengers)) engaged in interstate~~
18 ~~or foreign commerce ((insofar as the same are not prohibited under)) to~~
19 ~~the full extent permitted by the Constitution and laws of the United~~
20 ~~States ((or federal statute)).~~

21 **NEW SECTION.** **Sec. 64.** A new section is added to chapter 81.77 RCW
22 to read as follows:

23 It is unlawful for any motor carrier to perform a transportation
24 service for compensation upon the public highways of this state without
25 first having secured appropriate federal authority from the United
26 States department of transportation, if such authority is required, and
27 without first having registered with the commission either directly or
28 through a federally authorized uniform registration program.

29 **Sec. 65.** RCW 81.77.010 and 1989 c 431 s 17 are each amended to
30 read as follows:

31 As used in this chapter:

32 (1) "Motor vehicle" means any truck, trailer, semitrailer, tractor,
33 or any self-propelled or motor driven vehicle used upon any public
34 highway of this state for the purpose of transporting solid waste, for
35 the collection ~~((and/))~~ or disposal ~~((thereof))~~, or both, of solid
36 waste;

- 1 (2) "Public highway" means every street, road, or highway in this
2 state;
- 3 (3) "Common carrier" means any person who ~~((undertakes to))~~
4 collects and transports solid waste~~((τ))~~ for ~~((the collection and/or))~~
5 disposal ~~((thereofτ))~~ by motor vehicle for compensation, whether over
6 regular or irregular routes, or by regular or irregular schedules;
- 7 (4) "Contract carrier" means all ~~((garbage and refuse))~~ solid waste
8 transporters not included under the terms "common carrier" and "private
9 carrier," as ~~((herein))~~ defined in this section, and further, ~~((shall))~~
10 includes any person who under special and individual contracts or
11 agreements transports solid waste by motor vehicle for compensation;
- 12 (5) "Private carrier" means a person who, in his or her own
13 vehicle, transports solid waste purely as an incidental adjunct to some
14 other established private business owned or operated by ~~((him))~~ the
15 person in good faith~~((:—PROVIDED, That))~~. A person who transports
16 solid waste from residential sources in a vehicle designed or used
17 primarily for the transport of solid waste ~~((shall))~~ is not
18 ~~((constitute))~~ a private carrier;
- 19 (6) "Vehicle" means every device capable of being moved upon a
20 public highway and in, upon, or by which any solid waste is or may be
21 transported or drawn upon a public highway, ~~((excepting))~~ except
22 devices moved by human or animal power or used exclusively upon
23 stationary rail or tracks;
- 24 (7) "Solid waste collection company" means every person or his or
25 her lessees, receivers, or trustees, owning, controlling, operating, or
26 managing vehicles used in the business of transporting solid waste for
27 collection ~~((and/))~~ or disposal, or both, for compensation, except
28 septic tank pumpers, over any public highway in this state ~~((whether))~~
29 as a "common carrier" ~~((thereof))~~ or as a "contract carrier"
30 ~~((thereof))~~;
- 31 (8) "Solid waste collection" does not include collecting or
32 transporting recyclable materials from a drop-box or recycling buy-back
33 center, ~~((nor))~~ or collecting or transporting recyclable materials by
34 or on behalf of a commercial or industrial generator of recyclable
35 materials to a recycler for use or reclamation. Transportation of
36 these materials is regulated under chapter 81.80 RCW; ~~((and))~~
- 37 (9) "Solid waste" means the same as defined under RCW 70.95.030,

1 except for the purposes of this chapter solid waste does not include
2 recyclable materials except for source separated recyclable materials
3 collected from residences(~~(-)~~); and

4 (10) When the phrase "garbage and refuse" is used as a qualifying
5 phrase or otherwise, it means "solid waste."

6 **Sec. 66.** RCW 81.77.040 and 2005 c 121 s 6 are each amended to read
7 as follows:

8 ~~((No))~~ A solid waste collection company shall ~~((hereafter))~~ not
9 operate for the hauling of solid waste for compensation without first
10 having obtained from the commission a certificate declaring that public
11 convenience and necessity require such operation. ~~((A condition of~~
12 ~~operating))~~ To operate a solid waste collection company in the
13 unincorporated areas of a county ~~((shall be complying)),~~ the company
14 must comply with the solid waste management plan prepared under chapter
15 70.95 RCW ~~((applicable))~~ in the company's franchise area.

16 Issuance of the certificate of necessity ~~((shall))~~ must be
17 determined ~~((upon))~~ on, but not limited to, the following factors: The
18 present service and the cost thereof for the contemplated area to be
19 served; an estimate of the cost of the facilities to be utilized in the
20 plant for solid waste collection and disposal, ~~((sworn to before a~~
21 ~~notary public))~~ set out in an affidavit or declaration; a statement of
22 the assets on hand of the person, firm, association, or corporation
23 ~~((which))~~ that will be expended on the purported plant for solid waste
24 collection and disposal, ~~((sworn to before a notary public))~~ set out in
25 an affidavit or declaration; a statement of prior experience, if any,
26 in such field by the petitioner, ~~((sworn to before a notary public))~~
27 set out in an affidavit or declaration; and sentiment in the community
28 contemplated to be served as to the necessity for such a service.

29 When an applicant requests a certificate to operate in a territory
30 already served by a certificate holder under this chapter, the
31 commission may, after notice and an opportunity for a hearing, issue
32 the certificate only if the existing solid waste collection company or
33 companies serving the territory will not provide service to the
34 satisfaction of the commission or if the existing solid waste
35 collection company does not object.

36 In all other cases, the commission may, with or without hearing,
37 issue certificates, or for good cause shown refuse to issue them, or

1 issue them for the partial exercise only of the privilege sought, and
2 may attach to the exercise of the rights granted such terms and
3 conditions as, in its judgment, the public convenience and necessity
4 may require.

5 Any right, privilege, certificate held, owned, or obtained by a
6 solid waste collection company may be sold, assigned, leased,
7 transferred, or inherited as other property, (~~but~~) only (~~upon~~
8 authorization) if authorized by the commission.

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

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

24 **Sec. 67.** RCW 81.77.100 and 1989 c 431 s 25 are each amended to
25 read as follows:

26 (~~Neither this chapter nor any provision thereof shall apply, or be~~
27 ~~construed to apply, to commerce with foreign nations or commerce among~~
28 ~~the several states except insofar as the same may be permitted under~~
29 ~~the provisions of the Constitution of the United States and the acts of~~
30 ~~Congress.~~

31 However, in order)) This chapter applies to persons and motor
32 vehicles engaged in interstate or foreign commerce to the full extent
33 permitted by the Constitution and laws of the United States.

34 To protect public health and safety and to ensure solid waste
35 collection services are provided to all areas of the state, the
36 commission, in accordance with this chapter, shall regulate all solid
37 waste collection companies conducting business in the state.

1 **Sec. 68.** RCW 81.80.010 and 1989 c 60 s 1 are each amended to read
2 as follows:

3 The definitions set forth in this section apply throughout this
4 chapter.

5 (1) "Person" (~~((means—and))~~) includes an individual, firm,
6 copartnership, corporation, company, or association or their lessees,
7 trustees, or receivers.

8 (2) "Motor vehicle" means any truck, trailer, semitrailer, tractor,
9 dump truck which uses a hydraulic or mechanical device to dump or
10 discharge its load, or any self-propelled or motor-driven vehicle used
11 upon any public highway of this state for the purpose of transporting
12 property, but not including baggage, mail, and express transported on
13 the vehicles of auto transportation companies carrying passengers.

14 (3) "Public highway" means every street, road, or highway in this
15 state.

16 (4) "Common carrier" means any person who undertakes to transport
17 property for the general public by motor vehicle for compensation,
18 whether over regular or irregular routes, or regular or irregular
19 schedules, including motor vehicle operations of other carriers by rail
20 or water and of express or forwarding companies.

21 (5) "Contract carrier" includes all motor vehicle operators not
22 included under the terms "common carrier" and "private carrier" as
23 (~~((herein))~~) defined in (~~((paragraph (4) and paragraph (6))~~) this section,
24 and further includes any person who under special and individual
25 contracts or agreements transports property by motor vehicle for
26 compensation.

27 (6) A "private carrier" is a person who transports by his or her
28 own motor vehicle, with or without compensation (~~((therefor))~~), property
29 which is owned or is being bought or sold by (~~((such))~~) the person, or
30 property (~~((of which such))~~) where the person is the seller, purchaser,
31 lessee, or bailee (~~((where such))~~) and the transportation is incidental
32 to and in furtherance of some other primary business conducted by
33 (~~((such))~~) the person in good faith.

34 (7) "Motor carrier" (~~((means—and))~~) includes "common carrier,"
35 "contract carrier," "private carrier," and "exempt carrier" as
36 (~~((herein))~~) defined in this section.

37 (8) "Exempt carrier" means any person operating a vehicle exempted
38 (~~((from certain provisions of this chapter))~~) under RCW 81.80.040.

1 (9) "Vehicle" means every device capable of being moved upon a
2 public highway and in, upon, or by which any person or property is or
3 may be transported or drawn upon a public highway, (~~excepting~~) except
4 devices moved by human or animal power or used exclusively upon
5 stationary rail or tracks.

6 (~~(10) ("Commercial zone" means an area encompassing one or more~~
7 ~~cities or towns and environs adjacent thereto established pursuant to~~
8 ~~RCW 81.80.400.~~

9 (~~(11) "Terminal area" means an area including one or more cities or~~
10 ~~towns and environs adjacent thereto established pursuant to RCW~~
11 ~~81.80.400.~~

12 (~~(12)~~) "Common carrier" and "contract carrier" includes persons
13 engaged in the business of providing, contracting for, or undertaking
14 to provide transportation of property for compensation over the public
15 highways of the state of Washington as brokers or forwarders.

16 (11) "Household goods carrier" means a person engaged in the
17 business of transporting household goods as defined by the commission.

18 **Sec. 69.** RCW 81.80.020 and 1961 c 14 s 81.80.020 are each amended
19 to read as follows:

20 The business of operating as a motor carrier of freight for
21 compensation along the highways of this state is declared to be a
22 business affected with a public interest. The rapid increase of motor
23 carrier freight traffic and the fact that under the existing law many
24 motor trucks are not effectively regulated have increased the dangers
25 and hazards on public highways and make it imperative that (~~more~~
26 ~~complete~~) regulation to the fullest extent allowed under 49 U.S.C.
27 Sec. 14501 should be employed to the end that the highways may be
28 rendered safer for the use of the general public; that the wear of such
29 highways may be reduced; that congestion on highways may be minimized;
30 that the shippers of the state may be provided with a stabilized
31 service and rate structure; that sound economic conditions in such
32 transportation and among such carriers may be fostered in the public
33 interest; that adequate, economical, and efficient service by motor
34 carriers, and reasonable charges therefor, without unjust
35 discrimination, undue preferences or advantages, or unfair or
36 destructive competitive practices may be promoted; that the common
37 carriage of commodities by motor carrier may be preserved in the public

1 interest; that the relations between, and transportation by and
2 regulation of, motor carriers and other carriers may be improved and
3 coordinated so that the highways of the state of Washington may be
4 properly developed and preserved, and the public may be assured
5 adequate, complete, dependable, and stable transportation service in
6 all its phases.

7 **Sec. 70.** RCW 81.80.045 and 1979 ex.s. c 138 s 1 are each amended
8 to read as follows:

9 ~~((1) Except as provided in subsections (2) and (3) of this~~
10 ~~section, the provisions of)) This chapter ((shall)) does not apply to
11 the operations of a shipper or a group or association of shippers in
12 consolidating or distributing freight for themselves or for their
13 members on a nonprofit basis for the purpose of securing the benefits
14 of carload, truckload, or other volume rates, when the services of a
15 common carrier are used for the transportation of such shipments.~~

16 ~~((2) Every shipper or group or association of shippers claiming~~
17 ~~this exemption shall file with the commission on an annual basis a~~
18 ~~statement of nonprofit status and such proof of that status as the~~
19 ~~commission may by rule require.~~

20 ~~(3) The commission may examine the books and records of any shipper~~
21 ~~or group or association of shippers claiming exemption under this~~
22 ~~section solely for the purpose of investigating violations of this~~
23 ~~section.))~~

24 **Sec. 71.** RCW 81.80.060 and 1969 ex.s. c 210 s 17 are each amended
25 to read as follows:

26 Every person who engages for compensation to perform a combination
27 of services, a substantial portion of which includes transportation of
28 property of others upon the public highways ~~((shall be)),~~ is subject to
29 the jurisdiction of the commission as to such transportation and shall
30 not engage ~~((upon the same))~~ in such transportation without first
31 having obtained a common carrier or contract carrier permit to do so.
32 ~~((An example of such))~~ A combination of services ~~((shall))~~ includes,
33 but is not ~~((be))~~ limited to, the delivery of household appliances for
34 others where the delivering carrier also unpacks or uncrates the
35 appliances and makes the initial installation ~~((thereof. Every person~~
36 ~~engaging in such a combination of services shall advise the commission~~

1 what portion of the consideration is intended to cover the
2 transportation service and if the agreement covering the combination of
3 services is in writing, the rate and charge for such transportation
4 shall be set forth therein. The rates or charges for the
5 transportation services included in such combination of services shall
6 be subject to control and regulation by the commission in the same
7 manner that the rates of common and contract carriers are now
8 controlled and regulated)). Any person engaged in extracting
9 (~~and/~~) or processing, or both, and, in connection therewith, hauling
10 materials exclusively for the maintenance, construction, or improvement
11 of a public highway (~~shall not be deemed to be~~) is not engaged in
12 performing a combination of services.

13 **Sec. 72.** RCW 81.80.070 and 1999 c 79 s 1 are each amended to read
14 as follows:

15 (1) (~~No~~) A common carrier, (~~or~~) contract carrier, (~~or~~) or
16 (~~or~~) temporary carrier (~~or~~) shall not operate for the transportation of
17 property for compensation in this state without first obtaining from
18 the commission a permit (~~to do~~) for such operation.

19 (a) For household goods:

20 (i) Permits (~~heretofore issued or hereafter~~) issued to any
21 carrier (~~, shall~~) must be exercised by (~~said~~) the carrier to the
22 fullest extent (~~so as~~) to render reasonable service to the public.
23 Applications for (~~common or contract~~) household goods carrier permits
24 or permit extensions (~~thereof shall~~) must be on file for a period of
25 at least thirty days (~~prior to the granting thereof~~) before issuance
26 unless the commission finds that special conditions require (~~the~~)
27 earlier (~~granting thereof~~) issuance.

28 (~~(2)~~) (ii) A permit or permit extension (~~thereof shall~~) must be
29 issued to any qualified applicant (~~therefor~~), authorizing the whole
30 or any part of the operations covered by the application, if it is
31 found that: The applicant is fit, willing, and able (~~properly~~) to
32 perform the services proposed and conform to (~~the provisions of~~) this
33 chapter and the requirements, rules, and regulations of the commission
34 (~~thereunder, and that such~~); the operations (~~will be~~) are
35 consistent with the public interest (~~and~~); and, in the case of common
36 carriers, (~~that the same~~) they are (~~or will be~~) required by the

1 present or future public convenience and necessity(~~(7)~~); otherwise
2 (~~such~~) the application (~~shall~~) must be denied.

3 (~~(3) Nothing contained in~~) (b) For general commodities other than
4 household goods:

5 (i) The commission shall issue a common carrier permit to any
6 qualified applicant if it is found the applicant is fit, willing, and
7 able to perform the service and conform to the provisions of this
8 chapter and the rules and regulations of the commission.

9 (ii) Before a permit is issued, the commission shall require the
10 applicant to establish safety fitness and proof of minimum financial
11 responsibility as provided in this chapter.

12 (2) This chapter (~~shall be construed to~~) does not confer (~~upon~~)
13 on any person or persons the exclusive right or privilege of
14 transporting property for compensation over the public highways of the
15 state.

16 (~~(4)~~) (3) A common carrier, contract carrier, or temporary
17 carrier operating without the permit required in subsection (1) of this
18 section, or who violates a cease and desist order of the commission
19 issued under RCW 81.04.510, is subject to a penalty, under the process
20 set forth in RCW 81.04.405, of one thousand five hundred dollars.

21 (~~(5)~~) (4) Notwithstanding RCW 81.04.510, the commission may, in
22 conjunction with issuing the penalty set forth in subsection (~~(4)~~)
23 (3) of this section, issue cease and desist orders to carriers
24 operating without the permit required in subsection (1) of this
25 section, and to all persons involved in the carriers' operations.

26 **Sec. 73.** RCW 81.80.080 and 1991 c 41 s 1 are each amended to read
27 as follows:

28 Application for permits (~~shall~~) must be made to the commission in
29 writing and (~~shall~~) must state the ownership, financial condition,
30 equipment to be used and physical property of the applicant, the
31 territory or route or routes in or over which the applicant proposes to
32 operate, the nature of the transportation to be engaged in, and
33 (~~such~~) other information as the commission may require(~~(, and in case~~
34 ~~such application is that of a "contract carrier" shall have attached~~
35 ~~thereto photocopies of all contracts to furnish transportation covered~~
36 ~~by such application)~~).

1 **Sec. 74.** RCW 81.80.130 and 1961 c 14 s 81.80.130 are each amended
2 to read as follows:

3 To the extent allowed under 49 U.S.C. Sec. 14501, the commission
4 shall: Supervise and regulate every ((♯))common carrier((♯)) in this
5 state; make, fix, alter, and amend, just, fair, reasonable, minimum,
6 maximum, or minimum and maximum, rates, charges, classifications,
7 rules, and regulations for all ((♯))common carriers((♯)); regulate the
8 accounts, service, and safety of operations thereof; require the filing
9 of reports and other data thereby; and supervise and regulate all
10 ((♯))common carriers((♯)) in all other matters affecting their
11 relationship with competing carriers of every kind and the shipping and
12 general public(~~((:—PROVIDED,))~~). The commission may by order approve
13 rates filed by common carriers in respect to certain designated
14 commodities and services when, in the opinion of the commission, it is
15 impractical for the commission to make, fix, or prescribe rates
16 covering ((such)) the commodities and services.

17 **Sec. 75.** RCW 81.80.140 and 1961 c 14 s 81.80.140 are each amended
18 to read as follows:

19 To the extent allowed under 49 U.S.C. Sec. 14501, the commission
20 (~~((is hereby vested with power and authority, and it is hereby made its
21 duty, to))~~) shall: Supervise and regulate every ((♯))contract
22 carrier((♯)) in this state; ~~((to))~~ fix, alter, and amend, just, fair,
23 and reasonable classifications, rules, and regulations and minimum
24 rates and charges of each ((~~such~~—♯))contract carrier((♯)); ~~((to))~~
25 regulate the account, service, and safety of contract carriers'
26 operations (~~((thereof))~~); ~~((and))~~ require the filing of reports and of
27 other data thereby; and ~~((to))~~ supervise and regulate ((such
28 ♯))contract carriers((♯)) in all other matters affecting their
29 relationship with both the shipping and the general public.

30 **Sec. 76.** RCW 81.80.150 and 1993 c 97 s 4 are each amended to read
31 as follows:

32 The commission shall make, fix, construct, compile, promulgate,
33 publish, and distribute tariffs containing compilations of rates,
34 charges, classifications, rules, and regulations to be used by all
35 ((~~common~~)) household goods carriers. In compiling ((such)) these
36 tariffs (~~((it))~~), the commission shall include within any given tariff

1 compilation (~~((such))~~) the carriers, groups of carriers, commodities, or
2 geographical areas (~~((as))~~) it determines (~~((shall be))~~) are in the public
3 interest. (~~((Such))~~) The compilations and publications may be made by
4 the commission by compiling the rates, charges, classifications, rules,
5 and regulations now in effect, and as they may be amended and altered
6 from time to time after notice and hearing, by issuing and distributing
7 revised pages or supplements to (~~((such))~~) the tariffs or reissues
8 (~~((thereof))~~) of tariffs in accordance with the orders of the
9 commission(~~((:—PROVIDED, That))~~). The commission, upon good cause
10 shown, may establish temporary rates, charges, or classification
11 changes which may be made permanent only after publication in an
12 applicable tariff for not less than sixty days(~~((7))~~) and a determination
13 by the commission (~~((thereafter))~~) that the rates, charges, or
14 classifications are just, fair, and reasonable(~~((:—PROVIDED FURTHER,~~
15 ~~That temporary rates shall not be made permanent except upon notice and~~
16 ~~hearing if within sixty days from date of publication, a shipper or~~
17 ~~common carrier, or representative of either, shall file with the~~
18 ~~commission a protest alleging such temporary rates to be unjust,~~
19 ~~unfair, or unreasonable. For purposes of this proviso, the))~~). If a
20 shipper or common carrier, or representative of either, files a protest
21 with the commission, within sixty days from the date of publication,
22 stating that the temporary rates are unjust, unfair, or unreasonable,
23 the commission must hold a hearing to consider the protest.
24 Publication of these temporary rates in the tariff (~~((shall be deemed))~~)
25 is adequate public notice. (~~((Nothing herein shall be construed to~~
26 ~~prevent))~~) The commission (~~((from proceeding on its own motion))~~) may,
27 upon notice and hearing, (~~((to))~~) fix and determine just, fair, and
28 reasonable rates, charges, and classifications. Each common carrier
29 shall purchase from the commission and post tariffs applicable to its
30 authority. The commission shall set fees for the sale, supplements,
31 and corrections of the tariffs(~~((, and supplements and corrections of~~
32 ~~them,))~~) at rates to cover all costs of making, fixing, constructing,
33 compiling, promulgating, publishing, and distributing the tariffs. The
34 proper tariff, or tariffs, applicable to a carrier's operations
35 (~~((shall))~~) must be available to the public at each agency and office of
36 all common carriers operating within this state. (~~((Such))~~) The
37 compilations and publications (~~((shall))~~) must be sold by the commission
38 for the established fee. However, copies may be furnished for free to

1 other regulatory bodies and departments of government and to colleges,
2 schools, and libraries. All copies of the compilations, whether sold
3 or given for free, (~~shall~~) must be issued and distributed under rules
4 (~~and regulations to be~~) fixed by the commission(~~(: PROVIDED FURTHER,~~
5 ~~That)~~). The commission may by order authorize common carriers to
6 publish and file tariffs with the commission and be governed
7 (~~thereby~~) by the tariffs in respect to certain designated commodities
8 and services when, in the opinion of the commission, it is impractical
9 for the commission to make, fix, construct, compile, publish, and
10 distribute tariffs covering such commodities and services.

11 **Sec. 77.** RCW 81.80.170 and 1963 c 242 s 2 are each amended to read
12 as follows:

13 The commission may issue temporary permits to temporary (~~"common~~
14 ~~carriers" or "contract carriers"~~) household goods carriers for (~~a~~
15 ~~period not to exceed~~) no more than one hundred eighty days, but only
16 after (~~it~~) the commission finds that the issuance of (~~such~~) the
17 temporary permits is consistent with the public interest. (~~It~~) The
18 commission may prescribe (~~such~~) special rules and regulations and
19 impose (~~such~~) special terms and conditions (~~with reference thereto~~)
20 as in its judgment are reasonable and necessary in carrying out the
21 provisions of this chapter.

22 The commission may also issue temporary permits pending the
23 determination of an application filed with the commission for approval
24 of a consolidation or merger of the properties of two or more
25 (~~common~~) household goods carriers or (~~contract carriers or~~) of a
26 purchase or lease of one or more (~~common carriers or contract~~)
27 household goods carriers.

28 **Sec. 78.** RCW 81.80.190 and 1986 c 191 s 5 are each amended to read
29 as follows:

30 The commission shall, in (~~the granting of~~) issuing permits to
31 (~~the~~) common carriers(~~the~~) and (~~the~~) contract carriers(~~the~~) under this
32 chapter, require (~~such~~) the carriers to either procure and file
33 liability and property damage insurance from a company licensed to
34 write such insurance in the state of Washington, or deposit (~~such~~)
35 security, for (~~such~~) the limits of liability and (~~upon such~~) on
36 terms and conditions (~~as~~) that the commission (~~shall~~) determines

1 (~~to be~~) are necessary for the reasonable protection of the public
2 against damage and injury for which (~~such~~) the carrier may be liable
3 by reason of the operation of any motor vehicle.

4 In fixing the amount of (~~said~~) the insurance policy or policies,
5 or deposit of security, the commission shall (~~give due consideration~~
6 ~~to~~) consider the character and amount of traffic and the number of
7 persons affected and the degree of danger (~~which~~) that the proposed
8 operation involves.

9 (~~If the commission is notified of the cancellation, revocation, or~~
10 ~~any other changes in the required insurance or security of a common~~
11 ~~carrier or contract carrier with a permit to transport radioactive or~~
12 ~~hazardous materials, the commission shall immediately notify the state~~
13 ~~radiation control agency of the change.))~~

14 **Sec. 79.** RCW 81.80.220 and 1961 c 14 s 81.80.220 are each amended
15 to read as follows:

16 (~~No "common carrier" or "contract carrier"~~) A household goods
17 carrier shall not collect or receive a greater, less, or different
18 remuneration for the transportation of property or for any service in
19 connection therewith than the rates and charges (~~which shall have~~
20 ~~been~~) that are either legally established and filed with the
21 commission(~~τ~~) or (~~as~~) are specified in the contract or contracts
22 filed(~~, as the case may be, nor shall any such~~). A household goods
23 carrier shall not refund or remit in any manner or by any device any
24 portion of the rates and charges required to be collected by each
25 tariff or contract or filing with the commission.

26 The commission may check the records of all carriers under this
27 chapter and of those employing the services of the carrier (~~for the~~
28 ~~purpose of discovering~~) to discover all discriminations, under or
29 overcharges, and rebates, and may suspend or revoke permits for
30 violations of this section.

31 The commission may refuse to accept any time schedule (~~or~~),
32 tariff, or contract that (~~will~~), in the opinion of the commission,
33 limits the service of a carrier to profitable trips only or to the
34 carrying of high class commodities in competition with other carriers
35 who give a complete service (~~and thus afford~~) affording one carrier
36 an unfair advantage over a competitor.

1 **Sec. 80.** RCW 81.80.230 and 1980 c 132 s 2 are each amended to read
2 as follows:

3 Any person, whether a household goods carrier subject to ~~((the~~
4 ~~provisions of))~~ this chapter, shipper, or consignee, or any officer,
5 employee, agent, or representative thereof, who ~~((shall))~~: (1) Offers,
6 grants, ~~((or))~~ gives, ~~((or))~~ solicits, accepts, or receives any rebate,
7 concession, or discrimination in violation of ~~((any provision of))~~ this
8 chapter~~((, or who))~~; (2) by means of any false statement or
9 representation, or by the use of any false or fictitious bill, bill of
10 lading, receipt, voucher, roll, account, claim, certificate, affidavit,
11 deposition, lease, or bill of sale, or by any other means or device
12 ~~((shall))~~ assists, suffers, or permits any person or persons, natural
13 or artificial, to obtain transportation of property subject to this
14 chapter for less than the applicable rate, fare, or charge~~((r))~~; or
15 ~~((who shall))~~ (3) fraudulently seeks to evade or defeat regulation ~~((as~~
16 ~~in this chapter provided for))~~ of motor carriers ~~((shall be))~~ under
17 this chapter is subject to a civil penalty of not more than one hundred
18 dollars for each violation. Each and every ~~((such))~~ violation ~~((shall~~
19 ~~be))~~ is a separate and distinct offense, and in case of a continuing
20 violation every day's continuance ~~((shall be))~~ is a separate and
21 distinct violation. Every act ~~((of commission))~~ or omission ~~((which))~~
22 that procures, aids, or abets in the violation ~~((shall be considered))~~
23 is also a violation under this section and subject to the penalty
24 ~~((provided for in))~~ under this section.

25 The penalty ~~((provided for in))~~ under this section ~~((shall become))~~
26 is due and payable when the person incurring the penalty receives a
27 notice in writing from the commission describing the violation with
28 reasonable particularity and advising the person that the penalty is
29 due. The commission may, upon a written application ~~((therefor,))~~
30 received within fifteen days, remit or mitigate any penalty ~~((provided~~
31 ~~for in))~~ under this section or discontinue any prosecution to recover
32 the penalty upon such terms as the commission in its discretion deems
33 proper. The commission ~~((has authority to))~~ may ascertain the facts
34 ~~((upon))~~ on all ~~((such))~~ applications ~~((in such manner and under such~~
35 ~~regulations as it may deem proper))~~. If the penalty is not paid to the
36 commission within fifteen days after receipt of the notice imposing the
37 penalty, or the application for remission or mitigation ~~((has))~~ is not
38 ~~((been))~~ made within fifteen days after the violator has received

1 notice of the disposition of the application, the attorney general
2 shall bring an action in the name of the state of Washington in the
3 superior court of Thurston county or (~~of some other~~) another county
4 (~~in which~~) where the violator may do business, to recover the
5 penalty. In all such actions, the procedure and rules of evidence
6 (~~shall be~~) are the same as in an ordinary civil action except as
7 otherwise provided in this section. All penalties recovered under this
8 section (~~shall~~) must be paid into the state treasury and credited to
9 the public service revolving fund.

10 **Sec. 81.** RCW 81.80.250 and 1961 c 14 s 81.80.250 are each amended
11 to read as follows:

12 The commission may(~~, under such rules and regulations as it shall~~
13 ~~prescribe,~~) require any (~~common~~) household goods carrier to file a
14 surety bond, or deposit security, in (~~a sum to be~~) an amount
15 determined by the commission, (~~to be~~) that is conditioned (~~upon~~
16 ~~such~~) on the carrier (~~making compensation to~~) compensating the
17 shippers and consignees for all money belonging to the shippers and
18 consignees, and coming into the possession of (~~such~~) the carrier in
19 connection with its transportation service. Any (~~common~~) household
20 goods carrier (~~which may be~~) required by law to compensate a shipper
21 or consignee for any loss, damage, or default, for which a connecting
22 common carrier is legally responsible, (~~shall~~) must be subrogated to
23 the rights of (~~such~~) the shipper or consignee under any (~~such~~) bond
24 or deposit of security to the extent of the (~~sum so~~) amount paid.

25 **Sec. 82.** RCW 81.80.260 and 1967 c 69 s 3 are each amended to read
26 as follows:

27 It (~~shall be~~) is unlawful for any (~~person~~) household goods
28 carrier to operate any vehicle at the same time in more than one class
29 of operation, except upon approval of the commission and a finding that
30 (~~such~~) the operation (~~will be~~) is in the public interest.

31 (~~No~~) An exempt carrier(~~" as such~~) shall not transport
32 property for compensation except as (~~hereinabove~~) provided under this
33 chapter.

34 **Sec. 83.** RCW 81.80.270 and 1973 c 115 s 12 are each amended to
35 read as follows:

1 (~~No~~) Permits issued under (~~the authority of~~) this chapter
2 (~~shall be construed to be~~) are neither irrevocable(~~(-)~~) nor (~~shall~~
3 ~~such permit be~~) subject to transfer or assignment except upon a proper
4 showing that property rights might be affected thereby, and then in the
5 discretion of the commission.

6 (~~No~~) Any person, partnership, or corporation, singly or in
7 combination with any other person, partnership, or corporation, whether
8 a household goods carrier holding a permit or otherwise, or any
9 combination of such, shall not acquire control or enter into any
10 agreement or arrangement to acquire control of a (~~common or contract~~)
11 household goods carrier holding a permit through ownership of its stock
12 or through purchase, lease, or contract to manage the business, or
13 otherwise, except after and with the approval and authorization of the
14 commission(~~(- PROVIDED, That)~~). However, upon the dissolution of a
15 partnership, which holds a permit, because of the death, bankruptcy, or
16 withdrawal of a partner where (~~such~~) the partner's interest is
17 transferred to his or her spouse or to one or more remaining partners,
18 or in the case of a corporation which holds a permit, in the case of
19 the death of a shareholder where a shareholder's interest upon death is
20 transferred to his or her spouse or to one or more of the remaining
21 shareholders, the commission shall transfer the permit to the newly
22 organized partnership (~~which~~) that is substantially composed of the
23 remaining partners, or continue the corporation's permit without
24 (~~making the proceeding subject to~~) hearing and protest. In all other
25 cases, any (~~such~~) transaction either directly or indirectly entered
26 into without approval of the commission (~~shall be~~) is void (~~and of~~
27 ~~no effect~~), and it (~~shall be~~) is unlawful for any person seeking to
28 acquire or divest control of (~~such~~) the permit to be a party to (~~any~~
29 ~~such~~) the transaction without approval of the commission.

30 Every carrier who (~~shall~~) ceases operation and abandons his or
31 her rights under the permits issued to him or her shall notify the
32 commission within thirty days of (~~such~~) the cessation or
33 abandonment(~~(, and return to the commission the identification cards~~
34 ~~issued to him)~~).

35 **Sec. 84.** RCW 81.80.272 and 1973 c 115 s 13 are each amended to
36 read as follows:

37 Except as otherwise provided in RCW 81.80.270, any permit granted

1 or issued to any (~~person~~) household goods carrier under this chapter
2 and held by (~~that~~) a person alone or in conjunction with others other
3 than as stockholders in a corporation at the time of his or her death
4 (~~shall be~~) is transferable (~~the same~~) as any other right or
5 interest of the person's estate subject to the following:

6 (1) Application for transfer (~~shall~~) must be made to the
7 commission in (~~such~~) a form and contain (~~such~~) information (~~as~~)
8 prescribed by the commission (~~shall prescribe~~). The transfer
9 described in (~~any such~~) the application (~~shall~~) must be approved if
10 it appears from the application or from any hearing held thereon or
11 from any investigation thereof that the proposed transferee is fit,
12 willing, and able properly to perform the services authorized by the
13 permit to be transferred and to conform to the provisions of this
14 chapter and the requirements, rules, and regulations of the commission
15 (~~thereunder~~), otherwise the application (~~shall~~) must be denied.

16 (2) Temporary continuance of motor carrier operations without prior
17 compliance with (~~the provisions of~~) this section (~~will be~~) is
18 recognized as justified by the public interest (~~in cases in which~~)
19 when the personal representatives, heirs, or surviving spouses of
20 deceased persons desire to continue the operations of the carriers whom
21 they succeed in interest subject to (~~such~~) reasonable rules and
22 regulations (~~as~~) prescribed by the commission (~~may prescribe~~).

23 In case of temporary continuance under this section, the successor
24 shall immediately procure insurance or deposit security as required by
25 RCW 81.80.190.

26 Immediately upon any (~~such~~) temporary continuance of motor
27 carrier operations and in any event not more than thirty days
28 thereafter, the successor shall give notice of the succession by
29 written notice to the commission containing (~~such~~) information (~~as~~)
30 prescribed by the commission (~~shall prescribe~~).

31 **Sec. 85.** RCW 81.80.280 and 1987 c 209 s 1 are each amended to read
32 as follows:

33 Permits may be canceled, suspended, altered, or amended by the
34 commission upon complaint by any interested party, or upon the
35 commission's own motion after notice and opportunity for hearing, when
36 the permittee or (~~his or its~~) permittee's agent has repeatedly
37 violated this chapter, the rules and regulations of the commission, or

1 the motor laws of this state or of the United States, or the
2 (~~permittee~~) household goods carrier has made unlawful rebates or has
3 not conducted (~~his~~) its operation in accordance with the permit
4 (~~granted him. Any person may at the instance of~~). The commission
5 (~~be enjoined~~) may enjoin any person from any violation of (~~the~~
6 ~~provisions of~~) this chapter, or any order, rule, or regulation made by
7 the commission pursuant to the terms hereof. If (~~such~~) the suit
8 (~~be~~) is instituted by the commission (~~no~~), a bond (~~shall be~~) is
9 not required as a condition to the issuance of (~~such~~) the injunction.

10 **Sec. 86.** RCW 81.80.305 and 1991 c 241 s 1 are each amended to read
11 as follows:

12 (1) All motor vehicles, other than those exempt under subsection
13 (2) of this section, must display a permanent marking identifying the
14 name or number, or both, on each side of the power units. For a motor
15 vehicle that is a common or contract carrier under permit by the
16 commission as described in subsection (3)(a) of this section, a private
17 carrier under subsection (4) of this section, or a leased carrier as
18 described in subsection (5) of this section, any required
19 identification that is added, modified, or renewed after September 1,
20 1991, must be displayed on the driver and passenger doors of the power
21 unit. The identification must be in a clearly legible style with
22 letters no less than three inches high and in a color contrasting with
23 the surrounding body panel.

24 (2) This section does not apply to (a) vehicles exempt under RCW
25 81.80.040, and (b) vehicles operated by private carriers that singly or
26 in combination are less than thirty-six thousand pounds gross vehicle
27 weight.

28 (3) If the motor vehicle is operated as (a) a common or contract
29 carrier under a permit by the commission, the identification must
30 contain the name of the permittee, or business name, and the permit
31 number, or (b) a common or contract carrier holding both intrastate and
32 interstate authority, the identification may be either the (~~ICC~~
33 ~~certificate number or~~) commission permit number or the federal vehicle
34 marking requirement established by the United States department of
35 transportation for interstate motor carriers.

36 (4) If the motor vehicle is a private carrier, the identification

1 must contain the name and address of either the business operating the
2 vehicle or the registered owner.

3 (5) If the motor vehicle is operated under lease, the vehicle must
4 display either permanent markings or placards on the driver and
5 passenger doors of the power unit. A motor vehicle under lease (a)
6 that is operated as a common or contract carrier under permit by the
7 commission must display identification as provided in subsection (3)(a)
8 of this section, and (b) that is operated as a private carrier must
9 display identification as provided in subsection (4) of this section.

10 **Sec. 87.** RCW 81.80.330 and 1995 c 272 s 5 are each amended to read
11 as follows:

12 The commission (~~((is hereby empowered to))~~) may administer and
13 enforce all provisions of this chapter and (~~((to))~~) inspect the vehicles,
14 books, and documents of all (~~((the))~~) motor carriers(~~((the))~~) and the books,
15 documents, and records of those using the service of the carriers for
16 the purpose of discovering all discriminations and rebates and other
17 information pertaining to the enforcement of this chapter and shall
18 prosecute violations thereof. The commission shall employ (~~((such))~~)
19 auditors, inspectors, clerks, and assistants (~~((as it may deem))~~)
20 necessary for the enforcement of this chapter. The Washington state
21 patrol shall perform all motor carrier safety inspections required by
22 this chapter, including terminal safety audits, except for (1) those
23 carriers subject to the economic regulation of the commission, or (2)
24 a vehicle owned or operated by a carrier affiliated with a solid waste
25 company subject to economic regulation by the commission. (~~((The~~
26 ~~attorney general shall assign at least one assistant to the exclusive~~
27 ~~duty of assisting the commission in the enforcement of this chapter,~~
28 ~~and the prosecution of persons charged with the violation thereof. It~~
29 ~~shall be the duty of))~~) The Washington state patrol and the sheriffs of
30 the counties (~~((to))~~) shall make arrests and the county attorneys (~~((to))~~)
31 shall prosecute violations of this chapter.

32 **Sec. 88.** RCW 81.80.370 and 1961 c 14 s 81.80.370 are each amended
33 to read as follows:

34 This chapter (~~((shall apply))~~) applies to persons and motor vehicles
35 engaged in interstate or foreign commerce to the full extent permitted
36 by the Constitution and laws of the United States.

1 **Sec. 89.** RCW 81.80.371 and 1963 c 59 s 9 are each amended to read
2 as follows:

3 It (~~((shall be))~~) is unlawful for any motor carrier to perform a
4 transportation service for compensation upon the public highways of
5 this state without first having secured appropriate federal authority
6 from the (~~((Interstate Commerce Commission))~~) United States department of
7 transportation, if (~~((such))~~) the authority is required, and without
8 first having registered (~~((such authority, if any,))~~) with the commission
9 either directly or through a federally authorized uniform registration
10 program.

11 (~~((It shall also be unlawful for a carrier to perform a~~
12 ~~transportation service for compensation on the public highways of this~~
13 ~~state as an interstate carrier of commodities included in the~~
14 ~~exemptions provided in section 203(b) of the Interstate Commerce Act~~
15 ~~without having first registered as such a carrier with the commission.~~

16 ~~Such registration shall be granted upon application, without~~
17 ~~hearing, upon payment of the appropriate filing fee prescribed by this~~
18 ~~chapter for other applications for operating authority.))~~

19 **Sec. 90.** RCW 81.80.430 and 1991 c 146 s 1 are each amended to read
20 as follows:

21 (1) A person who provides brokering or forwarding services for the
22 transportation of property in intrastate commerce shall file with the
23 commission and keep in effect, a surety bond or deposit of satisfactory
24 security, in a sum to be determined by the commission, but not less
25 than five thousand dollars, conditioned upon (~~((such))~~) the broker or
26 forwarder (~~((making compensation to))~~) compensating shippers, consignees,
27 and carriers for all moneys belonging to them and coming into the
28 broker's or forwarder's possession in connection with the
29 transportation service.

30 (2) (~~((It is unlawful for a broker or forwarder to conduct business~~
31 ~~in this state without first securing appropriate authority from the~~
32 ~~Interstate Commerce Commission, if such authority is required, and~~
33 ~~registering with and providing satisfactory evidence of financial~~
34 ~~responsibility to the Washington utilities and transportation~~
35 ~~commission. Satisfactory evidence of financial responsibility shall~~
36 ~~consist of a surety bond or deposit of security. Compliance with this~~
37 ~~requirement may be met by filing a copy of a surety bond or trust fund~~

1 approved by the Interstate Commerce Commission. The commission shall
2 grant such registration without hearing, upon application and payment
3 of a one time registration fee as prescribed by the commission. For
4 purposes of this subsection, a broker or forwarder conducts business in
5 this state when the broker or forwarder, its employees, or agents is
6 physically present in the state and is acting as a broker or forwarder.

7 ~~(3))~~ Failure to file the bond~~((7))~~ or deposit security~~((, or~~
8 ~~provide satisfactory evidence of financial responsibility))~~ is
9 sufficient cause for ~~((refusal of))~~ the commission to refuse to grant
10 the application for a permit or registration. Failure to maintain the
11 bond or the deposit of security is sufficient cause for cancellation of
12 a permit or registration.

13 NEW SECTION. **Sec. 91.** A new section is added to chapter 81.80 RCW
14 to read as follows:

15 (1) The collection or transportation of recyclable materials from
16 a drop box or recycling buy-back center, or collection or
17 transportation of recyclable materials by or on behalf of a commercial
18 or industrial generator of recyclable materials to a recycler for use
19 or reclamation is subject to regulation under this chapter.

20 (2) Nothing in this chapter changes RCW 81.77.010(8), to allow any
21 entity, other than a solid waste collection company authorized by the
22 commission or an entity collecting solid waste from a city or town
23 under chapter 35.21 or 35A.21 RCW, to collect solid waste that may
24 incidentally contain recyclable materials.

25 **Sec. 92.** RCW 81.84.010 and 2003 c 373 s 4 and 2003 c 83 s 211 are
26 each reenacted and amended to read as follows:

27 (1) ~~((No))~~ A commercial ferry may ~~((hereafter))~~ not operate any
28 vessel or ferry for the public use for hire between fixed termini or
29 over a regular route upon the waters within this state, including the
30 rivers and lakes and Puget Sound, without first applying for and
31 obtaining from the commission a certificate declaring that public
32 convenience and necessity require such operation. Service authorized
33 by certificates issued before or after July 25, 1993, to a commercial
34 ferry operator ~~((shall))~~ must be exercised by the operator in a manner
35 consistent with the conditions established in the certificate or
36 tariffs~~((: PROVIDED, That no))~~. However, a certificate ~~((shall be))~~

1 is not required for a vessel primarily engaged in transporting freight
2 other than vehicles, whose gross earnings from the transportation of
3 passengers (~~and/~~) or vehicles, or both, are not more than ten percent
4 of the total gross annual earnings of such vessel (~~(:— PROVIDED, That~~
5 ~~nothing herein shall be construed to)~~). This section does not affect
6 the right of any county public transportation benefit area or other
7 public agency within this state to construct, condemn, purchase,
8 operate, or maintain, itself or by contract, agreement, or lease, with
9 any person, firm, or corporation, ferries or boats across (~~(or wharfs~~
10 ~~at or upon)~~) the waters within this state, including rivers and lakes
11 and Puget Sound, (~~(provided such)~~) if the operation is not over the
12 same route or between the same districts (~~(7)~~) being served by a
13 certificate holder without first acquiring the rights granted to the
14 certificate holder under the certificate (~~(, nor shall this chapter be~~
15 ~~construed to affect, amend, or invalidate any contract entered into~~
16 ~~prior to January 15, 1927, for the operation of ferries or boats upon~~
17 ~~the waters within this state, which was entered into in good faith by~~
18 ~~any county with any person, firm, or corporation, except that in case~~
19 ~~of the operation or maintenance by any county, city, town, port~~
20 ~~district, or other political subdivision by contract, agreement, or~~
21 ~~lease with any person, firm, or corporation, of ferries or boats across~~
22 ~~or wharfs at or upon the waters within this state, including rivers and~~
23 ~~lakes and Puget Sound, the commission shall have power and authority to~~
24 ~~regulate rates and services of such operation or maintenance of~~
25 ~~ferries, boats, or wharfs, to make, fix, alter, or amend said rates,~~
26 ~~and to regulate service and safety of operations thereof, in the manner~~
27 ~~and to the same extent as it is empowered to regulate a commercial~~
28 ~~ferry, notwithstanding the provisions of any act or parts of acts~~
29 ~~inconsistent herewith)~~).

30 (2) The holder of a certificate of public convenience and necessity
31 granted under this chapter must initiate service within five years of
32 obtaining the certificate, except that the holder of a certificate of
33 public convenience and necessity for passenger-only ferry service in
34 Puget Sound must initiate service within twenty months of obtaining the
35 certificate. The certificate holder shall report to the commission
36 every six months after the certificate is granted on the progress of
37 the certificated route. The reports shall include, but not be limited
38 to, the progress of environmental impact, parking, local government

1 land use, docking, and financing considerations. Except in the case of
2 passenger-only ferry service in Puget Sound, if service has not been
3 initiated within five years of obtaining the certificate, the
4 commission may extend the certificate on a twelve-month basis for up to
5 three years if the six-month progress reports indicate there is
6 significant advancement toward initiating service.

7 ~~((3) The commission shall review certificates in existence as of
8 July 25, 1993, where service is not being provided on all or any
9 portion of the route or routes certificated. Based on progress reports
10 required under subsection (2) of this section, the commission may grant
11 an extension beyond that provided in subsection (2) of this section.
12 Such additional extension may not exceed a total of two years.))~~

13 **Sec. 93.** RCW 81.84.020 and 2006 c 332 s 11 are each amended to
14 read as follows:

15 (1) Upon the filing of an application, the commission shall give
16 reasonable notice to the department, affected cities, counties, and
17 public transportation benefit areas and any common carrier which might
18 be adversely affected, of the time and place for hearing on such
19 application. The commission ~~((shall have power))~~ may, after notice and
20 an opportunity for a hearing, ~~((to))~~ issue the certificate as prayed
21 for, or ~~((to))~~ refuse to issue it, or ~~((to))~~ issue it for the partial
22 exercise only of the privilege sought, and may attach to the exercise
23 of the rights granted by ~~((said))~~ the certificate ~~((such))~~ any terms
24 and conditions as in its judgment the public convenience and necessity
25 may require; but the commission ~~((shall not have power to))~~ may not
26 grant a certificate to operate between districts ~~((and/))~~ or into any
27 territory prohibited by RCW 47.60.120 or already served by an existing
28 certificate holder, unless ~~((such))~~ the existing certificate holder has
29 failed or refused to furnish reasonable and adequate service, has
30 failed to provide the service described in its certificate or tariffs
31 after the time ~~((period))~~ allowed to initiate service has elapsed, or
32 has not objected to the issuance of the certificate as prayed for~~((+~~
33 ~~PROVIDED, A certificate shall be granted when it shall appear to the~~
34 ~~satisfaction of the commission that the commercial ferry was actually~~
35 ~~operating in good faith over the route for which such certificate shall~~
36 ~~be sought, on January 15, 1927: PROVIDED, FURTHER, That in case two or~~
37 ~~more commercial ferries shall upon said date have been operating~~

1 ~~vessels upon the same route, or between the same districts the~~
2 ~~commission shall determine after public hearing whether one or more~~
3 ~~certificates shall issue, and in determining to whom a certificate or~~
4 ~~certificates shall be issued, the commission shall consider all~~
5 ~~material facts and circumstances including the prior operation,~~
6 ~~schedules, and services rendered by either of the ferries, and in case~~
7 ~~more than one certificate shall issue, the commission shall fix and~~
8 ~~determine the schedules and services of the ferries to which the~~
9 ~~certificates are issued to the end that duplication of service be~~
10 ~~eliminated and public convenience be furthered)).~~

11 (2) Before issuing a certificate, the commission shall determine
12 that the applicant has the financial resources to operate the proposed
13 service for at least twelve months, based upon the submission by the
14 applicant of a pro forma financial statement of operations. Issuance
15 of a certificate (~~shall~~) must be determined upon, but not limited to,
16 the following factors: Ridership and revenue forecasts; the cost of
17 service for the proposed operation; an estimate of the cost of the
18 assets to be used in providing the service; a statement of the total
19 assets on hand of the applicant that will be expended on the proposed
20 operation; and a statement of prior experience, if any, in such field
21 by the applicant. The documentation required of the applicant under
22 this section (~~shall~~) must comply with the provisions of RCW
23 9A.72.085.

24 (~~3~~) (~~Subsection (2) of this section does not apply to an~~
25 ~~application for a certificate that is pending as of July 25, 1993.~~

26 (~~4~~)) In granting a certificate for passenger-only ferries and
27 determining what conditions to place on the certificate, the commission
28 shall consider and give substantial weight to the effect of its
29 decisions on public agencies operating, or eligible to operate,
30 passenger-only ferry service.

31 (~~(+5)~~) (4) Until July 1, 2007, the commission shall not accept or
32 consider an application for passenger-only ferry service serving any
33 county in the Puget Sound area with a population of over one million
34 people. Applications for passenger-only ferry service serving any
35 county in the Puget Sound area with a population of over one million
36 pending before the commission as of May 9, 2005, (~~shall~~) must be held
37 in abeyance and not be considered before July 1, 2007.

1 **Sec. 94.** RCW 47.76.230 and 1995 c 380 s 4 are each amended to read
2 as follows:

3 (1) The department of transportation shall continue its
4 responsibility for the development and implementation of the state rail
5 plan and programs, and the utilities and transportation commission
6 shall continue its responsibility for (~~intrastate rates, service,~~
7 ~~and~~) railroad safety issues.

8 (2) The department of transportation shall maintain an enhanced
9 data file on the rail system. Proprietary annual station traffic data
10 from each railroad and the modal use of major shippers (~~shall~~) must
11 be obtained to the extent that such information is available.

12 (3) The department of transportation shall provide technical
13 assistance, upon request, to state agencies and local interests.
14 Technical assistance includes, but is not limited to, the following:

15 (a) Rail project cost-benefit analyses conducted in accordance with
16 methodologies recommended by the federal railroad administration;

17 (b) Assistance in the formation of county rail districts and port
18 districts; and

19 (c) Feasibility studies for rail service continuation (~~and~~) or
20 rail service assistance, or both.

21 (4) With funding authorized by the legislature, the department of
22 transportation, in collaboration with the department of community,
23 trade, and economic development, and local economic development
24 agencies, and other interested public and private organizations, shall
25 develop a cooperative process to conduct community and business
26 information programs and to regularly disseminate information on rail
27 matters.

28 **Sec. 95.** RCW 47.76.240 and 1995 c 380 s 5 are each amended to read
29 as follows:

30 The state, counties, local communities, ports, railroads, labor,
31 and shippers all benefit from continuation of rail service and should
32 participate in its preservation. Lines that provide benefits to the
33 state and local jurisdictions, such as avoided roadway costs, reduced
34 traffic congestion, economic development potential, environmental
35 protection, and safety, should be assisted through the joint efforts of
36 the state, local jurisdictions, and the private sector.

1 State funding for rail service, rail preservation, and corridor
2 preservation projects must benefit the state's interests. The state's
3 interest is served by reducing public roadway maintenance and repair
4 costs, increasing economic development opportunities, increasing
5 domestic and international trade, preserving jobs, and enhancing
6 safety. State funding for projects is contingent upon appropriate
7 local jurisdiction and private sector participation and cooperation.
8 Before spending state moneys on projects, the department shall seek
9 federal, local, and private funding and participation to the greatest
10 extent possible.

11 (1) The department of transportation shall continue to monitor the
12 status of the state's mainline and branchline common carrier railroads
13 and preserved rail corridors through the state rail plan and various
14 analyses, and shall seek alternatives to abandonment prior to
15 interstate commerce commission proceedings, where feasible.

16 (2) The utilities and transportation commission shall intervene in
17 (~~interstate commerce commission~~) proceedings of the surface
18 transportation board, or its successor agency, on abandonments, when
19 necessary, to protect the state's interest.

20 (3) The department of transportation, in consultation with the
21 Washington state freight rail policy advisory committee, shall
22 establish criteria for evaluating rail projects and corridors of
23 significance to the state.

24 (4) Local jurisdictions may implement rail service preservation
25 projects in the absence of state participation.

26 (5) The department of transportation shall continue to monitor
27 projects for which it provides assistance.

28 **Sec. 96.** RCW 81.68.030 and 2005 c 121 s 2 are each amended to read
29 as follows:

30 The commission is vested with power and authority, and it is its
31 duty to supervise and regulate every auto transportation company in
32 this state as provided in this section. Under this authority, it shall
33 for each auto transportation company:

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

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

1 (3) Require the filing of annual and other reports and of other
2 data;

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

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

9 The commission may, at any time, by its order duly entered after
10 notice to the holder of any certificate under this chapter, and an
11 opportunity for a hearing, at which it shall be proven that the holder
12 willfully violates or refuses to observe any of the commission's proper
13 orders, rules, or regulations, suspend, revoke, alter, or amend any
14 certificate issued under the provisions of this chapter, but the holder
15 of the certificate has all the rights of rehearing, review, and appeal
16 as to the order of the commission as is provided for in chapter 34.05
17 RCW (~~81.68.070~~)).

18 **Sec. 97.** RCW 81.84.060 and 2003 c 373 s 6 are each amended to read
19 as follows:

20 The commission, upon complaint by an interested party, or upon its
21 own motion after notice and opportunity for hearing, may cancel,
22 revoke, suspend, alter, or amend a certificate issued under this
23 chapter on any of the following grounds:

24 (1) Failure of the certificate holder to initiate service by the
25 conclusion of the fifth year after the certificate has been granted or
26 by the conclusion of an extension granted under RCW 81.84.010(2) (~~or~~
27 ~~(3)~~), if the commission has considered the progress report information
28 required under RCW 81.84.010(2) (~~or~~ ~~(3)~~);

29 (2) Failure of a certificate holder for passenger-only ferry
30 service in Puget Sound to initiate service by the conclusion of the
31 twentieth month after the certificate has been granted;

32 (3) Failure of the certificate holder to file an annual report;

33 (4) The filing by a certificate holder of an annual report that
34 shows no revenue in the previous twelve-month period after service has
35 been initiated;

36 (5) The violation of any provision of this chapter;

1 (6) The violation of or failure to observe the provisions or
2 conditions of the certificate or tariffs;

3 (7) The violation of an order, decision, rule, regulation, or
4 requirement established by the commission under this chapter;

5 (8) Failure of a certificate holder to maintain the required
6 insurance coverage in full force and effect; or

7 (9) Failure or refusal to furnish reasonable and adequate service
8 after initiating service.

9 The commission shall take appropriate action within thirty days
10 upon a complaint by an interested party or of its own finding that a
11 provision of this section has been violated.

12 **Sec. 98.** RCW 79A.40.100 and 1959 c 327 s 10 are each amended to
13 read as follows:

14 The procedure for review of the orders or actions of the state
15 parks and recreation commission, its agents or employees, shall be
16 ~~((the same as that contained in))~~ conducted in accordance with chapter
17 34.05 RCW ~~((81.04.170, 81.04.180, and 81.04.190))~~.

18 **Sec. 99.** RCW 81.53.261 and 1982 c 94 s 1 are each amended to read
19 as follows:

20 Whenever the secretary of transportation or the governing body of
21 any city, town, or county, or any railroad company whose road is
22 crossed by any highway, shall deem that the public safety requires
23 signals or other warning devices, other than sawbuck signs, at any
24 crossing of a railroad at common grade by any state, city, town, or
25 county highway, road, street, alley, avenue, boulevard, parkway, or
26 other public place actually open and in use or to be opened and used
27 for travel by the public, he or it shall file with the utilities and
28 transportation commission a petition in writing, alleging that the
29 public safety requires the installation of specified signals or other
30 warning devices at such crossing or specified changes in the method and
31 manner of existing crossing warning devices. Upon receiving such
32 petition, the commission shall promptly set the matter for hearing,
33 giving at least twenty days notice to the railroad company or companies
34 and the county or municipality affected thereby, or the secretary of
35 transportation in the case of a state highway, of the time and place of
36 such hearing. At the time and place fixed in the notice, all persons

1 and parties interested shall be entitled to be heard and introduce
2 evidence, which shall be reduced to writing and filed by the
3 commission. If the commission shall determine from the evidence that
4 public safety does not require the installation of the signal, other
5 warning device or change in the existing warning device specified in
6 the petition, it shall make determinations to that effect and enter an
7 order denying said petition in toto. If the commission shall determine
8 from the evidence that public safety requires the installation of such
9 signals or other warning devices at such crossing or such change in the
10 existing warning devices at said crossing, it shall make determinations
11 to that effect and enter an order directing the installation of such
12 signals or other warning devices or directing that such changes shall
13 be made in existing warning devices. The commission shall also at said
14 hearing apportion the entire cost of installation and maintenance of
15 such signals or other warning devices, other than sawbuck signs, as
16 provided in RCW 81.53.271: PROVIDED, That upon agreement by all
17 parties to waive hearing, the commission shall forthwith enter its
18 order.

19 No railroad shall be required to install any such signal or other
20 warning device until the public body involved has either paid or
21 executed its promise to pay to the railroad its portion of the
22 estimated cost thereof.

23 Nothing in this section shall be deemed to foreclose the right of
24 the interested parties to enter into an agreement, franchise, or permit
25 arrangement providing for the installation of signals or other warning
26 devices at any such crossing or for the apportionment of the cost of
27 installation and maintenance thereof, or compliance with an existing
28 agreement, franchise, or permit arrangement providing for the same.

29 The hearing and determinations authorized by this section may be
30 instituted by the commission on its own motion, and the proceedings,
31 hearing, and consequences thereof shall be the same as for the hearing
32 and determination of any petition authorized by this section.

33 No part of the record, or a copy thereof, of the hearing and
34 determination provided for in this section and no finding, conclusion,
35 or order made pursuant thereto shall be used as evidence in any trial,
36 civil or criminal, arising out of an accident at or in the vicinity of
37 any crossing prior to installation of signals or other warning devices

1 pursuant to an order of the commission as a result of any such
2 investigation.

3 Any order entered by the utilities and transportation commission
4 under this section shall be subject to review, supersedeas and appeal
5 as provided in chapter 34.05 RCW (~~(81.04.170 through 81.04.190,~~
6 ~~respectively)~~).

7 Nothing in this section shall be deemed to relieve any railroad
8 from liability on account of failure to provide adequate protective
9 devices at any such crossing.

10 **Sec. 100.** RCW 15.66.270 and 1961 c 11 s 15.66.270 are each amended
11 to read as follows:

12 (~~Nothing in~~) This chapter (~~contained shall~~) does not apply
13 to(~~+~~

14 ~~(1) Any order, rule, or regulation issued or issuable by the~~
15 ~~Washington utilities and transportation commission or the interstate~~
16 ~~commerce commission with respect to the operation of common carriers;~~

17 ~~(2))~~ any provision of the statutes of the state of Washington
18 relating to the Washington apple (~~advertising~~) commission (chapter
19 15.24 RCW), to the soft tree fruits commission (chapter 15.28 RCW),
20 to the dairy products commission (chapter 15.44 RCW). (~~Ne~~) Marketing
21 agreements or orders shall not be issued with respect to apples, soft
22 tree fruits,
23 or dairy products for the purposes specified in RCW
24 15.66.030 (1) or (~~15.66.030~~)(2).

24 NEW SECTION. **Sec. 101.** RCW 81.56.120 is recodified as a new
25 section in chapter 81.48 RCW.

26 NEW SECTION. **Sec. 102.** The following acts or parts of acts are
27 each repealed:

28 (1) RCW 15.65.610 (Orders, rules of Washington utilities and
29 transportation commission and interstate commerce commission not
30 affected) and 1961 c 256 s 61;

31 (2) RCW 81.04.170 (Review of orders) and 1961 c 14 s 81.04.170;

32 (3) RCW 81.04.180 (Supersedeas) and 1961 c 14 s 81.04.180;

33 (4) RCW 81.04.190 (Appellate review) and 1988 c 202 s 63, 1971
34 ex.s. c 107 s 5, & 1961 c 14 s 81.04.190;

1 (5) RCW 81.04.520 (Rate regulation study) and 1998 c 245 s 164 &
2 1990 c 21 s 8;
3 (6) RCW 81.08.070 (Fee schedule) and 1961 c 14 s 81.08.070;
4 (7) RCW 81.36.070 (Purchase, lease, sale, merger of railroads) and
5 1961 c 14 s 81.36.070;
6 (8) RCW 81.40.040 (Train employees--Hours of service--Penalty--
7 Enforcement) and 2003 c 53 s 387, 1977 c 70 s 1, & 1961 c 14 s
8 81.40.040;
9 (9) RCW 81.40.100 (Penalty for employing illiterate engineer--
10 Penalty for illiterate person to act as engineer) and 1961 c 14 s
11 81.40.100;
12 (10) RCW 81.44.031 (Safety appliances--Locomotives operated on
13 class 1 railroads) and 1977 ex.s. c 263 s 1;
14 (11) RCW 81.44.032 (Penalties for violating RCW 81.44.031 or
15 tampering with locomotive speedometer lock or recording tape) and 1977
16 ex.s. c 263 s 2;
17 (12) RCW 81.44.050 (Power of commission as to appliances) and 1983
18 c 3 s 208 & 1961 c 14 s 81.44.050;
19 (13) RCW 81.44.060 (Penalty) and 1983 c 3 s 209 & 1961 c 14 s
20 81.44.060;
21 (14) RCW 81.44.065 (Devolution of powers and duties relative to
22 safety of railroads) and 1961 c 14 s 81.44.065;
23 (15) RCW 81.44.091 (Cabooses--Size--Equipment--Application) and
24 1969 ex.s. c 116 s 1;
25 (16) RCW 81.44.092 (Cabooses--Minimum length--Construction--
26 Insulation--Cupola) and 1969 ex.s. c 116 s 2;
27 (17) RCW 81.44.093 (Cabooses--Trucks, riding qualities, wheels--
28 Draft gears, minimum travel, minimum capacity) and 1969 ex.s. c 116 s
29 3;
30 (18) RCW 81.44.094 (Cabooses--Electric lighting--Markers) and 1969
31 ex.s. c 116 s 4;
32 (19) RCW 81.44.095 (Cabooses--Glass, glazing materials of safety
33 glass type) and 1969 ex.s. c 116 s 5;
34 (20) RCW 81.44.096 (Cabooses--Stanchions, grab handles, or bars,
35 installation--Edges and protrusions rounded--Seat backs, standard) and
36 1969 ex.s. c 116 s 6;
37 (21) RCW 81.44.097 (Cabooses--Drinking water facilities) and 1969
38 ex.s. c 116 s 7;

1 (22) RCW 81.44.0971 (Cabooses--Facilities for washing hands and
2 face) and 1969 ex.s. c 116 s 8;
3 (23) RCW 81.44.0972 (Cabooses--Fire extinguisher--Type, location,
4 and maintenance) and 1969 ex.s. c 116 s 9;
5 (24) RCW 81.44.098 (Cabooses--No violation when move in service if
6 correction made at first available point--Temporary exemption,
7 procedure, limitations) and 1969 ex.s. c 116 s 10;
8 (25) RCW 81.44.0981 (Cabooses--Register for report of failures--
9 Regulations for use of) and 1969 ex.s. c 116 s 11;
10 (26) RCW 81.44.0982 (Cabooses--Compliance, when--Standard for
11 compliance) and 1969 ex.s. c 116 s 12;
12 (27) RCW 81.44.099 (Cabooses--Regulation and enforcement--
13 Regulations for) and 1969 ex.s. c 116 s 13;
14 (28) RCW 81.44.100 (Penalty) and 1969 ex.s. c 116 s 14 & 1961 c 14
15 s 81.44.100;
16 (29) RCW 81.44.101 (Track motor cars--Windshield and canopy
17 required) and 1961 c 14 s 81.44.101;
18 (30) RCW 81.44.102 (Track motor cars--Absence of windshield or
19 canopy unlawful) and 1961 c 14 s 81.44.102;
20 (31) RCW 81.44.103 (Track motor cars--Head and tail lights
21 required) and 1961 c 14 s 81.44.103;
22 (32) RCW 81.44.104 (Track motor cars--Absence of lights unlawful)
23 and 1961 c 14 s 81.44.104;
24 (33) RCW 81.44.105 (Track motor cars--Penalty for violation) and
25 1961 c 14 s 81.44.105;
26 (34) RCW 81.44.110 (Equipment is part of cars--Tare weight) and
27 1961 c 14 s 81.44.110;
28 (35) RCW 81.44.120 (Reimbursement of shipper for supplying
29 equipment) and 1961 c 14 s 81.44.120;
30 (36) RCW 81.48.010 (Failure to ring bell--Penalty--Exception) and
31 1995 c 315 s 1 & 1961 c 14 s 81.48.010;
32 (37) RCW 81.48.015 (Limiting or prohibiting the sounding of
33 locomotive horns--Supplemental safety measures--Notice) and 1995 c 315
34 s 2;
35 (38) RCW 81.52.010 (Physical connections) and 1961 c 14 s
36 81.52.010;
37 (39) RCW 81.52.020 (Sidetrack and switch connections--Duty to
38 construct) and 1961 c 14 s 81.52.020;

1 (40) RCW 81.52.030 (Sidetrack and switch connection may be ordered
2 by commission) and 1961 c 14 s 81.52.030;
3 (41) RCW 81.52.040 (Spur tracks) and 1961 c 14 s 81.52.040;
4 (42) RCW 81.56.010 (Distribution of cars) and 1961 c 14 s
5 81.56.010;
6 (43) RCW 81.56.020 (Distributing book must be kept) and 1961 c 14
7 s 81.56.020;
8 (44) RCW 81.56.030 (Discrimination prohibited--Connecting lines)
9 and 1961 c 14 s 81.56.030;
10 (45) RCW 81.56.040 (Equal privileges) and 1961 c 14 s 81.56.040;
11 (46) RCW 81.56.050 (Joint rates and through routes) and 1961 c 14
12 s 81.56.050;
13 (47) RCW 81.56.060 (Forest products--Scales at junctions) and 1961
14 c 14 s 81.56.060;
15 (48) RCW 81.56.070 (Forest products--Charges, how based) and 1961
16 c 14 s 81.56.070;
17 (49) RCW 81.56.080 (Forest products--Shipper's count and weight)
18 and 1961 c 14 s 81.56.080;
19 (50) RCW 81.56.100 (Forest products--Penalty) and 1961 c 14 s
20 81.56.100;
21 (51) RCW 81.56.110 (Forest products--Special contracts regarding
22 weights) and 1961 c 14 s 81.56.110;
23 (52) RCW 81.56.130 (Commission rules to expedite traffic) and 1961
24 c 14 s 81.56.130;
25 (53) RCW 81.56.140 (Agent--Fixed place of business) and 1961 c 14
26 s 81.56.140;
27 (54) RCW 81.56.150 (Regulating sale of passenger tickets) and 2003
28 c 53 s 393 & 1961 c 14 s 81.56.150;
29 (55) RCW 81.56.160 (Redemption of unused tickets) and 1961 c 14 s
30 81.56.160;
31 (56) RCW 81.68.070 (Public service law invoked) and 1971 c 81 s 146
32 & 1961 c 14 s 81.68.070;
33 (57) RCW 81.70.300 (Authority of commission and courts) and 1988 c
34 30 s 10;
35 (58) RCW 81.77.015 (Construction of phrase "garbage and refuse")
36 and 1965 ex.s. c 105 s 5;
37 (59) RCW 81.77.070 (Public service company law invoked) and 1961 c
38 295 s 8;

1 (60) RCW 81.80.030 (Hidden transportation charges) and 1961 c 14 s
2 81.80.030;

3 (61) RCW 81.80.175 (Permits for farm to market hauling) and 1963 c
4 242 s 5;

5 (62) RCW 81.80.240 (Joint through rates) and 1961 c 14 s 81.80.240;

6 (63) RCW 81.80.301 (Registration of motor carriers doing business
7 in state--Identification number--Receipt carried in cab--Fees) and 1993
8 c 97 s 1;

9 (64) RCW 81.80.312 (Interchange of trailers, semitrailers, or power
10 units--Interchange agreement, approval, restrictions--Procedure when no
11 agreement) and 1969 ex.s. c 210 s 16, 1967 c 170 s 2, & 1961 c 14 s
12 81.80.312;

13 (65) RCW 81.80.318 (Single trip transit permit) and 1993 c 97 s 2,
14 1985 c 7 s 153, 1967 c 170 s 3, 1963 c 59 s 8, & 1961 c 14 s 81.80.318;

15 (66) RCW 81.80.340 (Public service law invoked) and 1971 c 81 s 147
16 & 1961 c 14 s 81.80.340;

17 (67) RCW 81.80.346 (Venue--Appeals from rulings and orders) and
18 1963 c 242 s 4;

19 (68) RCW 81.80.375 (Fee when federal requirements necessitate
20 uniform forms evidencing interstate operations) and 1971 ex.s. c 143 s
21 6;

22 (69) RCW 81.80.380 (Cooperation with federal government) and 1961
23 c 14 s 81.80.380;

24 (70) RCW 81.80.381 (Regulation pursuant to act of congress or
25 agreement with interstate commerce commission) and 1963 c 59 s 10;

26 (71) RCW 81.80.391 (Reciprocity--Apportionment of regulatory fees)
27 and 1961 c 14 s 81.80.391;

28 (72) RCW 81.80.395 (Idaho vehicles exempt--Reciprocity) and 2005 c
29 319 s 135 & 1988 c 138 s 1;

30 (73) RCW 81.80.400 (Commercial zones and terminal areas--Common
31 carriers with existing business within zone--Persons seeking to serve
32 as common carriers after designation) and 1982 c 71 s 2 & 1972 ex.s. c
33 22 s 1;

34 (74) RCW 81.80.410 (Commercial zones and terminal areas--Common
35 carriers with existing general freight authority) and 1982 c 71 s 3 &
36 1972 ex.s. c 22 s 2;

37 (75) RCW 81.80.420 (Commercial zones and terminal areas--Expansion
38 by commission) and 1982 c 71 s 4;

1 (76) RCW 81.80.440 (Recovered materials transportation--When permit
2 required--Rate regulation exemption--Definitions) and 1991 c 148 s 1 &
3 1990 c 123 s 1;

4 (77) RCW 81.80.450 (Recovered materials transportation--Evaluation
5 of rate regulation exemption--Required information--Rules) and 1998 c
6 245 s 167, 1995 c 399 s 212, & 1990 c 123 s 2; and

7 (78) RCW 81.80.460 (Recovered materials transportation--
8 Construction) and 1990 c 123 s 3.

--- END ---