
ENGROSSED SENATE BILL 5894

State of Washington

61st Legislature

2009 Regular Session

By Senators Haugen and Parlette

Read first time 02/05/09. Referred to Committee on Transportation.

1 AN ACT Relating to authorizing the utilities and transportation
2 commission to forbear from rate and service regulation of certain
3 transportation services; amending RCW 81.68.015, 81.84.010, 81.66.010,
4 and 81.70.220; reenacting and amending RCW 46.74.010; creating a new
5 section; and providing an expiration date.

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

7 **Sec. 1.** RCW 81.68.015 and 2007 c 234 s 47 are each amended to read
8 as follows:

9 This chapter does not apply to corporations or persons, their
10 lessees, trustees, receivers, or trustees appointed by any court
11 whatsoever insofar as they own, control, operate, or manage taxicabs,
12 hotel buses, school buses, or any other carrier that does not come
13 within the term "auto transportation company" as defined in RCW
14 81.68.010.

15 This chapter does not apply to persons operating motor vehicles
16 when operated wholly within the limits of incorporated cities or towns,
17 and for a distance not exceeding three road miles beyond the corporate
18 limits of the city or town in Washington in which the original starting

1 point of the vehicle is located, and which operation either alone or in
2 conjunction with another vehicle or vehicles is not a part of any
3 journey beyond the three-mile limit.

4 This chapter does not apply to commuter ride sharing or ride
5 sharing for persons with special transportation needs in accordance
6 with RCW 46.74.010, so long as the ride-sharing operation does not
7 compete with or infringe upon comparable service actually being
8 provided before the initiation of the ride-sharing operation by an
9 existing auto transportation company certificated under this chapter.

10 This chapter does not apply to a service carrying passengers for
11 compensation over any public highway in this state between fixed
12 termini or over a regular route if the commission finds, with or
13 without a hearing, that the service does not serve an essential
14 transportation purpose, is solely for recreation, and would not
15 adversely affect the operations of the holder of a certificate under
16 this chapter, and that exemption from this chapter is otherwise in the
17 public interest. Companies providing these services must, however,
18 obtain a permit under chapter 81.70 RCW.

19 This chapter does not apply to a service carrying passengers for
20 compensation over any public highway in this state between fixed
21 termini or over a regular route if the commission finds, with or
22 without a hearing, that the service is provided pursuant to a contract
23 with a state agency, or funded by a grant issued by the department of
24 transportation, and that exemption from this chapter is otherwise in
25 the public interest. Companies providing these services must, however,
26 obtain a permit under chapter 81.70 RCW.

27 **Sec. 2.** RCW 81.84.010 and 2007 c 234 s 92 are each amended to read
28 as follows:

29 (1) A commercial ferry may not operate any vessel or ferry for the
30 public use for hire between fixed termini or over a regular route upon
31 the waters within this state, including the rivers and lakes and Puget
32 Sound, without first applying for and obtaining from the commission a
33 certificate declaring that public convenience and necessity require
34 such operation. Service authorized by certificates issued (~~before or~~
35 ~~after July 25, 1993,~~) to a commercial ferry operator must be exercised
36 by the operator in a manner consistent with the conditions established
37 in the certificate (~~(or)~~) and tariff(~~(s)~~) filed under chapter 81.28

1 RCW. However, a certificate is not required for a vessel primarily
2 engaged in transporting freight other than vehicles, whose gross
3 earnings from the transportation of passengers or vehicles, or both,
4 are not more than ten percent of the total gross annual earnings of
5 such vessel.

6 (2) If the commission finds, with or without a hearing, that an
7 existing or a proposed commercial ferry service does not serve an
8 essential transportation purpose and is solely for recreation, the
9 commission may, by order, exempt that service from the requirements of
10 certification and regulation under this chapter. If the nonessential
11 service is a proposed service not already provided by an existing
12 certificate holder, the commission must also find, after notice to any
13 existing certificate holder operating within the same territory and an
14 opportunity to be heard, that the proposed service would not adversely
15 affect the rates or services of any existing certificate holder.

16 (3) This section does not affect the right of any county public
17 transportation benefit area or other public agency within this state to
18 construct, condemn, purchase, operate, or maintain, itself or by
19 contract, agreement, or lease, with any person, firm, or corporation,
20 ferries or boats across the waters within this state, including rivers
21 and lakes and Puget Sound, if the operation is not over the same route
22 or between the same districts being served by a certificate holder
23 without first acquiring the rights granted to the certificate holder
24 under the certificate.

25 ~~((+2))~~ (4) The holder of a certificate of public convenience and
26 necessity granted under this chapter must initiate service within five
27 years of obtaining the certificate, except that the holder of a
28 certificate of public convenience and necessity for passenger-only
29 ferry service in Puget Sound must initiate service within twenty months
30 of obtaining the certificate. The certificate holder shall report to
31 the commission every six months after the certificate is granted on the
32 progress of the certificated route. The reports shall include, but not
33 be limited to, the progress of environmental impact, parking, local
34 government land use, docking, and financing considerations. Except in
35 the case of passenger-only ferry service in Puget Sound, if service has
36 not been initiated within five years of obtaining the certificate, the
37 commission may extend the certificate on a twelve-month basis for up to

1 three years if the six-month progress reports indicate there is
2 significant advancement toward initiating service.

3 **Sec. 3.** RCW 81.66.010 and 1996 c 244 s 1 are each amended to read
4 as follows:

5 The definitions set forth in this section shall apply throughout
6 this chapter, unless the context clearly indicates otherwise.

7 (1) "Corporation" means a corporation, company, association, or
8 joint stock association.

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

10 (3) "Private, nonprofit transportation provider" means any private,
11 nonprofit corporation providing transportation services for
12 compensation solely to persons with special transportation needs, or
13 pursuant to a contract with a state agency or funded by a grant issued
14 by the department of transportation.

15 (4) "Persons with special transportation needs" means those
16 persons, including their personal attendants, who because of physical
17 or mental disability, income status, or age are unable to transport
18 themselves or to purchase appropriate transportation.

19 **Sec. 4.** RCW 81.70.220 and 1989 c 163 s 7 are each amended to read
20 as follows:

21 (1) No person may engage in the business of a charter party carrier
22 or excursion service carrier of persons over any public highway without
23 first having obtained a certificate from the commission to do so or
24 having registered as an interstate carrier.

25 (2) An auto transportation company carrying passengers for
26 compensation over any public highway in this state between fixed
27 termini or over a regular route that is not required to hold an auto
28 transportation certificate because of a commission finding under RCW
29 81.68.015 must obtain a certificate under this chapter.

30 **Sec. 5.** RCW 46.74.010 and 1997 c 250 s 8 and 1997 c 95 s 1 are
31 each reenacted and amended to read as follows:

32 The definitions set forth in this section shall apply throughout
33 this chapter, unless the context clearly indicates otherwise.

34 (1) "Commuter ride sharing" means a car pool or van pool
35 arrangement whereby one or more fixed groups not exceeding fifteen

1 persons each including the drivers, and (a) not fewer than five persons
2 including the drivers, or (b) not fewer than four persons including the
3 drivers where at least two of those persons are confined to wheelchairs
4 when riding, are transported in a passenger motor vehicle with a gross
5 vehicle weight not exceeding ten thousand pounds, excluding special
6 rider equipment, between their places of abode or termini near such
7 places, and their places of employment or educational or other
8 institutions, each group in a single daily round trip where the drivers
9 are also on the way to or from their places of employment or
10 educational or other institution.

11 (2) "Flexible commuter ride sharing" means a car pool or van pool
12 arrangement whereby a group of at least two but not exceeding fifteen
13 persons including the driver is transported in a passenger motor
14 vehicle with a gross vehicle weight not exceeding ten thousand pounds,
15 excluding special rider equipment, between their places of abode or
16 termini near such places, and their places of employment or educational
17 or other institutions, where the driver is also on the way to or from
18 his or her place of employment or educational or other institution.

19 (3) "Ride sharing for persons with special transportation needs"
20 means an arrangement whereby a group of persons with special
21 transportation needs, and their attendants, is transported by a public
22 social service agency or a private, nonprofit transportation provider,
23 as defined in RCW 81.66.010(3), serving persons with special needs, in
24 a passenger motor vehicle as defined by the department to include small
25 buses, cutaways, and modified vans not more than twenty-eight feet
26 long: PROVIDED, That the driver need not be a person with special
27 transportation needs.

28 (4) "Ride-sharing operator" means the person, entity, or concern,
29 not necessarily the driver, responsible for the existence and
30 continuance of commuter ride sharing, flexible commuter ride sharing,
31 or ride sharing for persons with special transportation needs. The
32 term "ride-sharing operator" includes but is not limited to an
33 employer, an employer's agent, an employer-organized association, a
34 state agency, a county, a city, a public transportation benefit area,
35 or any other political subdivision that owns or leases a ride-sharing
36 vehicle.

37 (5) "Ride-sharing promotional activities" means those activities
38 involved in forming a commuter ride-sharing arrangement or a flexible

1 commuter ride-sharing arrangement, including but not limited to
2 receiving information from existing and prospective ride-sharing
3 participants, sharing that information with other existing and
4 prospective ride-sharing participants, matching those persons with
5 other existing or prospective ride-sharing participants, and making
6 assignments of persons to ride-sharing arrangements.

7 (6) "Persons with special transportation needs" means those persons
8 defined in RCW 81.66.010(4).

9 NEW SECTION. **Sec. 6.** (1) Within its existing resources, the
10 utilities and transportation commission shall study the appropriateness
11 of rate and service regulation of commercial ferries operating on Lake
12 Chelan. The commission shall report its findings and recommendations
13 to the legislature by December 31, 2009.

14 (2) This section expires December 31, 2009.

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