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**SUBSTITUTE SENATE BILL 6234**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senate Energy, Environment & Technology (originally sponsored by Senator Palumbo)

AN ACT Relating to emerging internet technology applications and consumers utilizing the services of carrier network companies and carrier network company operators; amending RCW 81.80.070, 81.80.305, 81.80.355, and 81.04.010; reenacting and amending RCW 81.80.010; adding a new section to chapter 81.80 RCW; adding a new section to chapter 81.24 RCW; and creating new sections.

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

NEW SECTION. **Sec.**  The legislature finds that the internet and mobile telecommunications have changed the way in which consumers access and purchase services in virtually every sector of the economy. Furthermore, the legislature finds that consumers desire more options for delivery and transportation of personal property, such as operators who are available on demand to move prearranged small loads of personal property short distances. The legislature intends that carrier network companies, which use emerging technology-based platforms to prearrange for small personal property moves, and carrier network company operators, which use carrier network companies to broker such moves, be appropriately regulated. The legislature therefore intends to authorize the utilities and transportation commission to update its existing motor freight carrier rules to regulate carrier network companies and carrier network company operators.

**Sec.**  RCW 81.80.010 and 2009 c 94 s 1 are each reenacted and amended to read as follows:

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

(1) "Carrier network company" means any corporation, partnership, sole proprietorship, or other entity permitted under this chapter and operating in the state of Washington as a public service company that provides a digital network or software application for the purpose of brokering the transportation of household goods for compensation between customers and carrier network company operators.

(2) "Carrier network company operator" means an operator that uses a carrier network company's digital network or software application to transport household goods for customers brokered by a carrier network company. A carrier network company operator must conduct such transportation using a standard size pickup or other noncommercial motor vehicle, as that term is defined in 49 C.F.R. Sec. 390.5.

(3) "Common carrier" means any person who undertakes to transport property for the general public by motor vehicle for compensation, whether over regular or irregular routes, or regular or irregular schedules, including motor vehicle operations of other carriers by rail or water and of express or forwarding companies. "Common carrier" includes persons engaged in the business of providing, contracting for, or undertaking to provide transportation of property for compensation over the public highways of the state of Washington as brokers or forwarders. "Common carrier" does not include "carrier network company" or "carrier network company operator."

((~~(2)~~)) (4) "Contract carrier" includes all motor vehicle operators not included under the terms "carrier network company operator," "common carrier," and "private carrier" as defined in this section, and further includes any person who under special and individual contracts or agreements transports property by motor vehicle for compensation. ((~~(3) "Common carrier" and~~)) "Contract carrier" includes persons engaged in the business of providing, contracting for, or undertaking to provide transportation of property for compensation over the public highways of the state of Washington as brokers or forwarders.

((~~(4)~~)) (5) "Exempt carrier" means any person operating a vehicle exempted under RCW 81.80.040.

((~~(5)~~)) (6) "Household goods carrier" means a person, other than a carrier network company or a carrier network company operator, who transports for compensation, by motor vehicle within this state, or who advertises, solicits, offers, or enters into an agreement to transport household goods as defined by the commission. "Household goods carrier" does not include "carrier network company" or "carrier network company operator."

((~~(6)~~)) (7) "Motor carrier" includes "carrier network company," "carrier network company operator," "common carrier," "contract carrier," "private carrier," and "exempt carrier" as defined in this section.

((~~(7)~~)) (8) "Motor vehicle" means any truck, trailer, semitrailer, tractor, dump truck which uses a hydraulic or mechanical device to dump or discharge its load, or any self-propelled or motor-driven vehicle used upon any public highway of this state for the purpose of transporting property, but not including baggage, mail, and express transported on the vehicles of auto transportation companies carrying passengers.

((~~(8)~~)) (9) "Person" includes an individual, firm, copartnership, corporation, company, or association or their lessees, trustees, or receivers.

((~~(9)~~)) (10) A "private carrier" is a person who transports by his or her own motor vehicle, with or without compensation, property which is owned or is being bought or sold by the person, or property where the person is the seller, purchaser, lessee, or bailee and the transportation is incidental to and in furtherance of some other primary business conducted by the person in good faith.

((~~(10)~~)) (11) "Public highway" means every street, road, or highway in this state.

((~~(11)~~)) (12) "Vehicle" means every device capable of being moved upon a public highway and in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human or animal power or used exclusively upon stationary rail or tracks.

**Sec.**  RCW 81.80.070 and 2009 c 94 s 3 are each amended to read as follows:

(1) A carrier network company, carrier network company operator, common carrier, contract carrier, or temporary carrier shall not operate for the transportation of property for compensation in this state without first obtaining from the commission a permit for such operation.

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

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

(4) Carrier network companies are public service companies that must be regulated in a manner similar to forwarders and brokers as provided in RCW 81.80.430.

**Sec.**  RCW 81.80.305 and 2007 c 234 s 86 are each amended to read as follows:

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

(2) This section does not apply to:

(a) Vehicles exempt under RCW 81.80.040((~~, and~~));

(b) Vehicles operated by private carriers that singly or in combination are less than thirty-six thousand pounds gross vehicle weight; or

(c) Vehicles operated by carrier network company operators.

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

(4) If the motor vehicle is a private carrier, the identification must contain the name and address of either the business operating the vehicle or the registered owner.

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

(6) If a motor vehicle is operated by a carrier network company operator under a permit issued by the commission, the vehicle must display a marking identifying the name of its associated carrier network company.

**Sec.**  RCW 81.80.355 and 2013 c 23 s 309 are each amended to read as follows:

Any person not holding a permit authorizing him or her to operate as a carrier network company, carrier network company operator, common carrier, contract carrier, or temporary carrier for the transportation of property for compensation in this state, or an exempt carrier, who displays on any building, vehicle, billboard, or in any manner, any advertisement of, or by circular, letter, newspaper, magazine, poster, card, or telephone directory, advertises the transportation of property for compensation shall be guilty of a misdemeanor and punishable as such.

**Sec.**  RCW 81.04.010 and 2007 c 234 s 4 are each amended to read as follows:

((~~As used in this title, unless specially defined otherwise or unless the context indicates otherwise:~~)) The definitions in this section apply throughout this title unless the context clearly requires otherwise.

(1) "Carrier network company" means any corporation, partnership, sole proprietorship, or other entity permitted under this chapter and operating in the state of Washington as a public service company who provides a digital network or software application for the purpose of brokering the transportation of household goods for compensation between customers and carrier network company operators.

(2) "Carrier network company operator" means an operator that uses a carrier network company's digital network or software application to prearrange transport of household goods for customers brokered by a carrier network company. A carrier network company operator must conduct such transportation using a standard size pickup or other noncommercial motor vehicle, as that term is defined in 49 C.F.R. Sec. 390.5.

(3) "Commission" means the utilities and transportation commission.

((~~(2)~~)) (4) "Commissioner" means one of the members of such commission.

((~~(3)~~)) (5) "Corporation" includes a corporation, company, association, or joint stock association.

((~~(4)~~)) (6) "Low-level radioactive waste site operating company" includes every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court whatsoever, owning, operating, controlling, or managing a low-level radioactive waste disposal site or sites located within the state of Washington.

((~~(5)~~)) (7) "Low-level radioactive waste" means low-level waste as defined by RCW 43.145.010.

((~~(6)~~)) (8) "Person" includes an individual, a firm, or copartnership.

((~~(7)~~)) (9) "Street railroad" includes every railroad by whatsoever power operated, or any extension or extensions, branch or branches thereof, for public use in the conveyance of persons or property for hire, being mainly upon, along, above, or below any street, avenue, road, highway, bridge, or public place within any one city or town, and includes all equipment, switches, spurs, tracks, bridges, right of trackage, subways, tunnels, stations, terminals, and terminal facilities of every kind used, operated, controlled, or owned by or in connection with any such street railroad, within this state.

((~~(8)~~)) (10) "Street railroad company" includes every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court whatsoever, and every city or town, owning, controlling, operating, or managing any street railroad or any cars or other equipment used thereon or in connection therewith within this state.

((~~(9)~~)) (11) "Railroad" includes every railroad, other than street railroad, by whatsoever power operated for public use in the conveyance of persons or property for hire, with all facilities and equipment, used, operated, controlled, or owned by or in connection with any such railroad.

((~~(10)~~)) (12) "Railroad company" includes every corporation, company, association, joint stock association, partnership, or person, their lessees, trustees, or receivers appointed by any court whatsoever, owning, operating, controlling, or managing any railroad or any cars or other equipment used thereon or in connection therewith within this state.

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

((~~(12)~~)) (14) "Vessel" includes every species of watercraft, by whatsoever power operated, for public use in the conveyance of persons or property for hire over and upon the waters within this state, excepting all towboats, tugs, scows, barges, and lighters, and excepting rowboats and sailing boats under twenty gross tons burden, open steam launches of five tons gross and under, and vessels under five tons gross propelled by gas, fluid, naphtha, or electric motors.

((~~(13)~~)) (15) "Commercial ferry" includes every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers, appointed by any court whatsoever, owning, controlling, leasing, operating, or managing any vessel over and upon the waters of this state.

((~~(14)~~)) (16) "Transportation of property" includes any service in connection with the receiving, delivery, elevation, transfer in transit, ventilation, refrigeration, icing, storage, and handling of the property transported, and the transmission of credit.

((~~(15)~~)) (17) "Transportation of persons" includes any service in connection with the receiving, carriage, and delivery of persons transported and their baggage and all facilities used, or necessary to be used in connection with the safety, comfort, and convenience of persons transported.

((~~(16)~~)) (18) "Public service company" includes every common carrier and carrier network company.

((~~(17)~~)) (19) The term "service" is used in this title in its broadest and most inclusive sense.

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

The commission may adopt rules regarding the qualifications of drivers, safety of vehicles, insurance or bond requirements, regulatory fees, and consumer protection related to carrier network companies and carrier network company operators.

NEW SECTION. **Sec.**  A new section is added to chapter 81.24 RCW to read as follows:

(1) On or before the date specified by the commission for filing annual reports under RCW 81.04.080, every carrier network company must file with the commission a statement showing:

(a) Its gross operating revenue from intrastate operations for the preceding year and pay to the commission a fee of two-fifths of one percent of the amount of gross operating revenue; and

(b) The vehicles used for the preceding year and pay to the commission a per vehicle fee established by the commission not to exceed one hundred dollars.

(2) The commission may, by rule:

(a) Set minimum fees that do not exceed the cost of collecting the fees; and

(b) Waive any or all of the minimum fee established under this section.

(3) The percentage rate of gross operating revenue to be paid in any period may be decreased by the commission by general order entered before the fifteenth day of the month preceding the month in which the fee is due.

NEW SECTION. **Sec.**  Nothing in this act changes or limits the authority of the Washington utilities and transportation commission to regulate collection of solid waste in the state of Washington, including curbside collection of residential recyclable materials, nor does this act change or limit the authority of a city or town to provide such service itself or by contract pursuant to RCW 81.77.020.

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