S-1801.1

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**SUBSTITUTE SENATE BILL 5362**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senate Transportation (originally sponsored by Senators King and Liias; by request of Utilities & Transportation Commission)

AN ACT Relating to the regulation of passenger charter and excursion carriers; amending RCW 81.70.020, 81.70.030, 81.70.220, 81.70.260, 81.70.320, 81.70.350, and 81.70.360; adding new sections to chapter 81.70 RCW; and prescribing penalties.

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

**Sec.**  RCW 81.70.020 and 2007 c 234 s 55 are each amended to read as follows:

Unless the context otherwise requires, the definitions and general provisions in this section govern the construction of this chapter:

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

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

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

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

(5) Subject to the exclusions of RCW 81.70.030, "charter party carrier" means every person engaged in the transportation over any public highways in this state of a group of persons, who, pursuant to a common purpose and under a single contract, acquire the use of a motor vehicle to travel together as a group to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartered group after leaving the place of origin;

(6) Subject to the exclusion of RCW 81.70.030, "excursion service carrier" means every person engaged in the transportation of persons for compensation over any public highway in this state from points of origin within the incorporated limits of any city or town or area, to any other location within the state of Washington and returning to that origin. The service must not pick up or drop off passengers after leaving and before returning to the area of origin. The excursions may be regularly scheduled. Compensation for the transportation offered or afforded must be computed, charged, or assessed by the excursion service company on an individual fare basis;

(7) "Customer" means a person, corporation, or other entity that prearranges for transportation services with a charter party carrier or purchases a ticket for transportation services aboard an excursion service carrier;

(8) "Double-decker bus" means a motor vehicle with more than one passenger deck. A person using a double-decker bus must comply with the maximum height vehicle requirements contained in RCW 46.44.020;

(9) Subject to the exclusions of RCW 81.70.030, "party bus" means any motor vehicle whose interior enables passengers to stand and circulate throughout the vehicle because seating is placed around the perimeter of the bus or is nonexistent and in which food, beverages, or entertainment may be provided. A motor vehicle configured in the traditional manner of forward-facing seating with a center aisle is not a party bus. A person engaged in the transportation of persons by party bus over any public highway in this state is considered engaging in the business of a charter party carrier or excursion service carrier;

(10) "Permittee" means a holder of an appropriate special permit issued under chapter 66.20 RCW who is twenty-one years of age or older and who is responsible for compliance with the requirements of section 8 of this act and chapter 66.20 RCW during the provision of transportation services.

**Sec.**  RCW 81.70.030 and 2007 c 234 s 56 are each amended to read as follows:

This chapter does not apply to:

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

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

((~~(3)~~)) (2) Passenger vehicles carrying passengers on a noncommercial enterprise basis; or

((~~(4)~~)) (3) Limousine charter party carriers of passengers under chapter 46.72A RCW.

**Sec.**  RCW 81.70.220 and 2009 c 557 s 4 are each amended to read as follows:

(1) No person may engage in the business of a charter party carrier or excursion service carrier of ((~~persons~~)) passengers over any public highway without first having obtained a certificate from the commission to do so or having registered as an interstate carrier. For the purposes of this section, "engage in the business of a charter party carrier or excursion service carrier" includes advertising or soliciting, offering, or entering into an agreement to provide such service. Each advertisement reproduced, broadcast, or displayed via a particular medium constitutes a separate violation under this chapter.

(2) Any person who engages in the business of a charter party carrier or excursion service carrier in violation of subsection (1) of this section is subject to a penalty of up to five thousand dollars per violation.

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

**Sec.**  RCW 81.70.260 and 1989 c 163 s 9 are each amended to read as follows:

(1) After the cancellation or revocation of a certificate or interstate registration or during the period of its suspension, it is unlawful for a charter party carrier or excursion service carrier of passengers to conduct any operations as such a carrier. For the purposes of this section, "conduct any operations" includes advertising or soliciting, offering, or entering into an agreement to provide such service. Each advertisement reproduced, broadcast, or displayed via a particular medium constitutes a separate violation under this chapter.

(2) Any person who conducts operations as a charter party carrier or excursion service carrier of passengers in violation of subsection (1) of this section is subject to a penalty of up to five thousand dollars per violation.

**Sec.**  RCW 81.70.320 and 2007 c 234 s 61 are each amended to read as follows:

(1) An application for a certificate, amendment of a certificate, or transfer of a certificate must be accompanied by a filing fee the commission may prescribe by rule. The fee must not exceed two hundred dollars.

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

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

**Sec.**  RCW 81.70.350 and 1994 c 83 s 3 are each amended to read as follows:

(1) The commission shall collect from each charter party carrier and excursion service carrier holding a certificate issued pursuant to this chapter and from each interstate or foreign carrier subject to this chapter an annual regulatory fee, to be established by the commission but which in total shall not exceed the cost of supervising and regulating such carriers, for each bus used by such carrier.

(2) ((~~All~~)) The fee((~~s~~)) prescribed ((~~by~~)) under this section ((~~shall be~~)) is due and payable on or before ((~~December 31~~)) May 1st of each year, to cover operations during the ((~~ensuing~~)) calendar year ((~~beginning February 1~~)) in which the fee is paid.

(3) Any payment of the fee imposed by this section made after its due date shall include a late fee of two percent of the amount due. Delinquent fees shall accrue interest at the rate of one percent per month.

**Sec.**  RCW 81.70.360 and 1984 c 166 s 5 are each amended to read as follows:

No excursion service company may operate for the transportation of persons for compensation without first having obtained from the commission under the provisions of this chapter a certificate to do so. For the purposes of this section, "operate for the transportation of persons for compensation" includes advertising or soliciting, offering, or entering into an agreement to provide such service.

A certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing, and able to properly perform the services proposed and conform to the provisions of this chapter and the rules of the commission adopted under this chapter, and that such operations will be consistent with the public interest. ((~~However, a certificate shall be granted when it appears to the satisfaction of the commission that the person, firm, or corporation was actually operating in good faith that type of service for which the certificate was sought on January 15, 1983.~~)) Any right, privilege, or certificate held, owned, or obtained by an excursion service company may be sold, assigned, leased, transferred, or inherited as other property only upon authorization by the commission. For good cause shown the commission may refuse to issue the certificate, or issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted by the certificate such terms and conditions as, in its judgment, the public interest may require.

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

(1) A charter party carrier or excursion service carrier may not provide alcoholic beverages to a customer.

(2) An excursion service carrier must prohibit the consumption of alcohol aboard the vehicle.

(3) Unless the charter party carrier prohibits the consumption of alcohol aboard the vehicle, at the time transportation service using or advertised as a party bus is purchased or the contract of carriage is made, the charter party carrier must determine whether alcoholic beverages will be served or consumed in the passenger compartment of the vehicle. If alcoholic beverages will be served or consumed in the passenger compartment, the carrier must, prior to commencing transportation services:

(a) Confirm that a permittee is present and require the permittee to be present at all times during the transportation service;

(b) Obtain a copy of the customer's appropriate special permit required under RCW 66.20.010 and retain a copy of the permit with the contract of carriage;

(c) Require the permittee to check the identification of all passengers; and

(d) Verify that the permittee knowingly assumes responsibility for compliance with the terms of the special permit, if a permit is required, including compliance with RCW 66.44.270 concerning the prohibition against furnishing liquor to minors.

(4) If the requirements of subsection (3) of this section are not fulfilled before transportation services are scheduled to begin, the carrier must remove all alcoholic beverages and lock them in the vehicle trunk or other locked compartment or cancel the trip.

(5) If at any time the charter party carrier or excursion service carrier learns that (a) alcoholic beverages will be or are being served or consumed in the passenger compartment and a permittee is not present, or (b) any person under twenty-one years of age is consuming or has consumed alcoholic beverages in the passenger compartment, the carrier must remove all alcoholic beverages and lock them in the vehicle trunk or other locked compartment. The charter party carrier or excursion service carrier may terminate the transportation service and return the passengers to the place of origin.

(6) If at any time the charter party carrier or excursion service carrier believes that conditions aboard the vehicle are unsafe, the charter party carrier or excursion service carrier may cancel the trip and return the passengers to the place of origin.

(7) This section does not limit the right of a charter party carrier to prohibit the consumption of alcohol aboard the vehicle.

(8) This section does not limit the right of a permittee to seek indemnity from any person, corporation, or other entity other than the charter party carrier.

(9) This section does not relieve a passenger of legal responsibility for his or her own conduct or the permittee of legal responsibility for compliance with Title 66 RCW.

(10) Any charter party carrier or excursion service carrier in violation of this section is subject to a penalty of up to five thousand dollars per violation.

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

(1) A charter party carrier or excursion service carrier may not knowingly allow any passenger to smoke aboard a motor vehicle regulated under this chapter.

(2) For the purposes of this section, "smoke" has the same meaning as defined in RCW 70.160.020.

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