

**RCW 47.60.120 Other crossings—Infringement of existing franchises—Waivers (as amended by 2003 c 83).** (1) If the department acquires or constructs, maintains, and operates any ferry crossings upon or toll bridges over Puget Sound or any of its tributary or connecting waters, there shall not be constructed, operated, or maintained any other ferry crossing upon or bridge over any such waters within ten miles of any such crossing or bridge operated or maintained by the department excepting such bridges or ferry crossings in existence, and being operated and maintained under a lawfully issued franchise at the time of the location of the ferry crossing or construction of the toll bridge by the department.

(2) The ten-mile distance in subsection (1) of this section means ten statute miles measured by airline distance. The ten-mile restriction shall be applied by comparing the two end points (termini) of a state ferry crossing to those of a private ferry crossing.

(3) The Washington utilities and transportation commission may, upon written petition of a commercial ferry operator certificated or applying for certification under chapter 81.84 RCW, and upon notice and hearing, grant a waiver from the ten-mile restriction. The waiver must not be detrimental to the public interest. In making a decision to waive the ten-mile restriction, the commission shall consider, but is not limited to, the impact of the waiver on transportation congestion mitigation, air quality improvement, and the overall impact on the Washington state ferry system. The commission shall act upon a request for a waiver within ninety days after the conclusion of the hearing. A waiver is effective for a period of five years from the date of issuance. At the end of five years the waiver becomes permanent unless appealed within thirty days by the commission on its own motion, the department, or an interested party.

(4) The department shall not maintain and operate any ferry crossing or toll bridge over Puget Sound or any of its tributary or connecting waters that would infringe upon any franchise lawfully issued by the state and in existence and being exercised at the time of the location of the ferry crossing or toll bridge by the department, without first acquiring the rights granted to such franchise holder under the franchise.

(5) This section does not apply to the operation of passenger-only ferry service by public transportation benefit areas meeting the requirements of RCW 36.57A.200 or to the operation of passenger-only ferry service by ferry districts. [2003 c 83 § 204; 1993 c 427 § 1; 1984 c 7 § 307; 1961 c 13 § 47.60.120. Prior: 1949 c 179 § 6; Rem. Supp. 1949 § 6584-35.]

**Findings—Intent—Captions, part headings not law—Severability—Effective date—2003 c 83:** See notes following RCW 36.57A.200.

**RCW 47.60.120 Other crossings—Infringement of existing franchises—Waivers (as amended by 2003 c 373).** (1) If the department acquires or constructs, maintains, and operates any ferry crossings upon or toll bridges over Puget Sound or any of its tributary or connecting waters, there shall not be constructed, operated, or maintained any other ferry crossing upon or bridge over any such waters within ten miles of any such crossing or bridge operated or maintained by the department excepting such bridges or ferry crossings in existence, and being operated and maintained under a lawfully

issued franchise at the time of the location of the ferry crossing or construction of the toll bridge by the department.

(2) The ten-mile distance in subsection (1) of this section means ten statute miles measured by airline distance. The ten-mile restriction shall be applied by comparing the two end points (termini) of a state ferry crossing to those of a private ferry crossing.

(3) The Washington utilities and transportation commission may, upon written petition of a commercial ferry operator certificated or applying for certification under chapter 81.84 RCW, and upon notice and hearing, grant a waiver from the ten-mile restriction. The waiver must not be detrimental to the public interest. In making a decision to waive the ten-mile restriction, the commission shall consider, but is not limited to, the impact of the waiver on transportation congestion mitigation, air quality improvement, and the overall impact on the Washington state ferry system. The commission shall act upon a request for a waiver within ninety days after the conclusion of the hearing. A waiver is effective for a period of five years from the date of issuance. At the end of five years the waiver becomes permanent unless appealed within thirty days by the commission on its own motion, the department, or an interested party.

(4) The department shall not maintain and operate any ferry crossing or toll bridge over Puget Sound or any of its tributary or connecting waters that would infringe upon any franchise lawfully issued by the state and in existence and being exercised at the time of the location of the ferry crossing or toll bridge by the department, without first acquiring the rights granted to such franchise holder under the franchise.

(5) This section does not apply to operators of passenger-only ferry service. [2003 c 373 § 2; 1993 c 427 § 1; 1984 c 7 § 307; 1961 c 13 § 47.60.120. Prior: 1949 c 179 § 6; Rem. Supp. 1949 § 6584-35.]

**Reviser's note:** RCW 47.60.120 was amended twice during the 2003 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

**Findings—Intent—2003 c 373:** See note following RCW 47.64.090.