

Chapter 81.77 RCW
SOLID WASTE COLLECTION COMPANIES

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Unlawful diversion of recyclable material: RCW 70A.205.190.

RCW 81.77.010 Definitions. As used in this chapter:

(1) "Common carrier" means any person who collects and transports solid waste for disposal by motor vehicle for compensation, whether over regular or irregular routes, or by regular or irregular schedules;

(2) "Contract carrier" means all solid waste transporters not included under the terms "common carrier" and "private carrier," as defined in this section, and further, includes any person who under special and individual contracts or agreements transports solid waste by motor vehicle for compensation;

(3) When the phrase "garbage and refuse" is used as a qualifying phrase or otherwise, it means "solid waste";

(4) "Motor vehicle" means any truck, trailer, semitrailer, tractor, or any self-propelled or motor-driven vehicle used upon any public highway of this state for the purpose of transporting solid waste, for the collection or disposal, or both, of solid waste;

(5) "Private carrier" means a person who, in his or her own vehicle, transports solid waste purely as an incidental adjunct to some other established private business owned or operated by the person in good faith. A person who transports solid waste from residential sources in a vehicle designed or used primarily for the transport of solid waste is not a private carrier;

(6) "Public highway" means every street, road, or highway in this state;

(7) "Solid waste" means the same as defined under RCW 70A.205.015, except for the purposes of this chapter solid waste does not include recyclable materials except for source separated recyclable materials collected from residences;

(8) "Solid waste collection" does not include collecting or transporting recyclable materials from a drop-box or recycling buy-back center, or collecting or transporting recyclable materials by or on behalf of a commercial or industrial generator of recyclable materials to a recycler for use or reclamation. Transportation of these materials is regulated under chapter 81.80 RCW;

(9) "Solid waste collection company" means every person or his or her lessees, receivers, or trustees, owning, controlling, operating, or managing vehicles used in the business of transporting solid waste for collection or disposal, or both, for compensation, except septic tank pumpers, over any public highway in this state as a "common carrier" or as a "contract carrier"; and

(10) "Vehicle" means every device capable of being moved upon a public highway and in, upon, or by which any solid waste 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. [2020 c 20 § 1466; 2007 c 234 § 65; 1989 c 431 § 17; 1961 c 295 § 2.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

RCW 81.77.020 Compliance with chapter required—Exemption for cities. No person, his or her lessees, receivers, or trustees, shall engage in the business of operating as a solid waste collection company in this state, except in accordance with the provisions of this chapter: PROVIDED, That the provisions of this chapter shall not apply to the operations of any solid waste collection company under a contract of solid waste disposal with any city or town, nor to any city or town which itself undertakes the disposal of solid waste. [2013 c 23 § 307; 1989 c 431 § 18; 1961 c 295 § 3.]

RCW 81.77.0201 Jurisdiction of commission upon discontinuation of jurisdiction by municipality. A city, town, or combined city-county may at any time reverse its decision to exercise its authority under RCW 81.77.020. In such an event, the commission shall issue a certificate to the last holder of a valid commission certificate of public convenience and necessity, or its successors or assigns, for the area reverting to commission jurisdiction. If there was no certificate existing for the area, or the previous holder was compensated for its certificate property right, the commission shall consider applications for authority under RCW 81.77.040. [1997 c 171 § 4.]

Severability—1997 c 171: See note following RCW 35.02.160.

RCW 81.77.030 Supervision and regulation by commission. The commission shall supervise and regulate every solid waste collection company in this state,

(1) By fixing and altering its rates, charges, classifications, rules and regulations;

(2) By regulating the accounts, service, and safety of operations;

(3) By requiring the filing of annual and other reports and data;

(4) By supervising and regulating such persons or companies in all other matters affecting the relationship between them and the public which they serve;

(5) By requiring compliance with local solid waste management plans and related implementation ordinances;

(6) By requiring certificate holders under chapter 81.77 RCW to use rate structures and billing systems consistent with the solid waste management priorities set forth under RCW 70A.205.005 and the minimum levels of solid waste collection and recycling services pursuant to local comprehensive solid waste management plans. The commission may order consolidated billing and provide for reasonable and necessary expenses to be paid to the administering company if more than one certificate is granted in an area.

The commission, on complaint made on its own motion or by an aggrieved party, at any time, after providing the holder of any certificate with notice and an opportunity for a hearing at which it shall be proven that the holder has willfully violated or refused to observe any of the commission's orders, rules, or regulations, or has failed to operate as a solid waste collection company for a period of at least one year preceding the filing of the complaint, may suspend, revoke, alter, or amend any certificate issued under the provisions of this chapter. [2020 c 20 § 1467; 2005 c 121 § 5; 1989 c 431 § 20; 1987 c 239 § 1; 1965 ex.s. c 105 § 1; 1961 c 295 § 4.]

RCW 81.77.040 Certificate of convenience and necessity required—Issuance—Transferability—Solid waste categories. A solid waste collection company shall not operate for the hauling of solid waste for compensation without first having obtained from the commission a certificate declaring that public convenience and necessity require such operation. Operating for the hauling of solid waste for compensation includes advertising, soliciting, offering, or entering into an agreement to provide that service. To operate a solid waste collection company in the unincorporated areas of a county, the company must comply with the solid waste management plan prepared under chapter 70A.205 RCW in the company's franchise area.

Issuance of the certificate of necessity must be determined on, but not limited to, the following factors: The present service and the cost thereof for the contemplated area to be served; an estimate of the cost of the facilities to be utilized in the plant for solid waste collection and disposal, set out in an affidavit or declaration; a statement of the assets on hand of the person, firm, association, or corporation that will be expended on the purported plant for solid waste collection and disposal, set out in an affidavit or declaration; a statement of prior experience, if any, in such field by the

petitioner, set out in an affidavit or declaration; and sentiment in the community contemplated to be served as to the necessity for such a service.

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

In all other cases, the commission may, with or without hearing, issue certificates, or for good cause shown refuse to issue them, or issue them for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted such terms and conditions as, in its judgment, the public convenience and necessity may require.

Any right, privilege, certificate held, owned, or obtained by a solid waste collection company may be sold, assigned, leased, transferred, or inherited as other property, only if authorized by the commission.

For purposes of issuing certificates under this chapter, the commission may adopt categories of solid wastes as follows: Garbage, refuse, recyclable materials, and demolition debris. A certificate may be issued for one or more categories of solid waste. Certificates issued on or before July 23, 1989, shall not be expanded or restricted by operation of this chapter. [2020 c 20 § 1468; 2010 c 24 § 1; 2007 c 234 § 66; 2005 c 121 § 6; 1989 c 431 § 21; 1987 c 239 § 2; 1961 c 295 § 5.]

Effective date—2010 c 24: "This act takes effect July 1, 2010."
[2010 c 24 § 3.]

RCW 81.77.050 Filing fees. Any application for a certificate issued under this chapter or amendment thereof, or application to sell, lease, mortgage, or transfer a certificate issued under this chapter or any interest therein, shall be accompanied by such filing fee as the commission may prescribe by rule: PROVIDED, That such fee shall not exceed two hundred dollars. [1989 c 431 § 22; 1973 c 115 § 9; 1961 c 295 § 6.]

RCW 81.77.060 Liability and property damage insurance—Surety bond. The commission, in granting certificates to operate a solid waste collection company, shall require the owner or operator to first procure liability and property damage insurance from a company licensed to make liability insurance in the state or a surety bond of a company licensed to write surety bonds in the state, on each motor propelled vehicle used or to be used in transporting solid waste for compensation in the amount of not less than twenty-five thousand dollars for any recovery for personal injury by one person, and not less than ten thousand dollars and in such additional amount as the commission shall determine, for all persons receiving personal injury by reason of one act of negligence, and not less than ten thousand dollars for damage to property of any person other than the assured, and to maintain such liability and property damage insurance or surety

bond in force on each motor propelled vehicle while so used. Each policy for liability or property damage insurance or surety bond required herein shall be filed with the commission and kept in full force and effect and failure so to do shall be cause for revocation of the delinquent's certificate. [1989 c 431 § 23; 1961 c 295 § 7.]

RCW 81.77.080 Companies to file reports of gross operating revenue and pay fees—Legislative intent—Disposition of revenue.

Every solid waste collection company shall, on or before the date specified by the commission for filing annual reports under RCW 81.04.080, file with the commission a statement on oath showing its gross operating revenue from intrastate operations for the preceding calendar year, or portion thereof, and pay to the commission a fee equal to one percent of the amount of gross operating revenue: PROVIDED, That the commission may, by rule, set minimum fees that do not exceed the cost of collecting the fees. The commission may by rule waive any or all of the minimum fee established pursuant to this section.

It is the intent of the legislature that the fees collected under the provisions of this chapter shall reasonably approximate the cost of supervising and regulating motor carriers subject thereto, and to that end the utilities and transportation commission is authorized to decrease the schedule of fees provided in this section by general order entered before March 1st of any year in which it determines that the moneys then in the solid waste collection companies account of the public service revolving fund and the fees currently to be paid will exceed the reasonable cost of supervising and regulating such carriers.

All fees collected under this section or under any other provision of this chapter shall be paid to the commission and shall be by it transmitted to the state treasurer within thirty days to be deposited to the credit of the public service revolving fund. [2003 c 296 § 5; 1989 c 431 § 24; 1971 ex.s. c 143 § 3; 1969 ex.s. c 210 § 11; 1963 c 59 § 12; 1961 c 295 § 9.]

RCW 81.77.090 Penalty. (1) Every person who violates or fails to comply with, or who procures, aids, or abets in the violation of any provisions of this chapter, or who fails to obey, or comply with any order, decision, rule, regulation, direction, demand, or requirement of the commission, or any part or provision thereof, is guilty of a gross misdemeanor.

(2) Each advertisement reproduced, broadcast, or displayed via a particular medium constitutes a separate violation under this chapter. [2010 c 24 § 2; 1961 c 295 § 10.]

Effective date—2010 c 24: See note following RCW 81.77.040.

RCW 81.77.100 Application to foreign or interstate commerce—Regulation of solid waste collection companies. This chapter applies to persons and motor vehicles engaged in interstate or foreign commerce to the full extent permitted by the Constitution and laws of the United States.

To protect public health and safety and to ensure solid waste collection services are provided to all areas of the state, the commission, in accordance with this chapter, shall regulate all solid waste collection companies conducting business in the state. [2007 c 234 § 67; 1989 c 431 § 25; 1985 c 436 § 2; 1961 c 295 § 11.]

RCW 81.77.110 Temporary certificates. The commission may with or without a hearing issue temporary certificates to engage in the business of operating a solid waste collection company, but only after it finds that the issuance of such temporary certificate is consistent with the public interest. Such temporary certificate may be issued for a period up to one hundred eighty days where the area or territory covered thereby is not contained in the certificate of any other solid waste collection company. In all other cases such temporary certificate may be issued for a period not to exceed one hundred twenty days. The commission may prescribe such special rules and regulations and impose such special terms and conditions with reference thereto as in its judgment are reasonable and necessary in carrying out the provisions of this chapter. The commission shall collect a fee of twenty-five dollars for an application for such temporary certificate. [1989 c 431 § 26; 1965 ex.s. c 105 § 2.]

RCW 81.77.120 Service to unincorporated areas of counties. A county legislative authority shall periodically comment to the commission in writing concerning the authority's perception of the adequacy of service being provided by regulated franchisees serving the unincorporated areas of the county. The county legislative authority shall also receive and forward to the commission all letters of comment on services provided by regulated franchise holder(s) serving unincorporated areas of the county. Any such written comments or letters shall become part of the record of any rate, compliance, or any other hearing held by the commission on the issuance, revocation, or reissuance of a certificate provided for in RCW 81.77.040. [1987 c 239 § 3.]

RCW 81.77.130 Application of chapter to collection or transportation of source separated recyclable materials. The provisions of chapter 81.77 RCW shall not apply to the collection or transportation of source separated recyclable materials from residences under a contract with any county, city, or town, nor to any city or town which itself undertakes the collection and transportation of source separated recyclable materials from residences. [1989 c 431 § 19.]

RCW 81.77.140 Application of chapter—Collection and transportation of recyclable materials by recycling companies or nonprofit entities—Reuse or reclamation. Nothing in this chapter shall prevent a recycling company or nonprofit entity from collecting and transporting recyclable materials from a buy-back center, drop-box, or from a commercial or industrial generator of recyclable materials, or upon agreement with a solid waste collection company.

Nothing in this chapter shall be construed as prohibiting a commercial or industrial generator of commercial recyclable materials from selling, conveying, or arranging for transportation of such material to a recycler for reuse or reclamation. [1989 c 431 § 31.]

RCW 81.77.160 Pass-through rates—Rules. (1) The commission, in fixing and altering collection rates charged by every solid waste collection company under this section, shall include in the base for the collection rates:

(a) All charges for the disposal of solid waste at the facility or facilities designated by a local jurisdiction under a local comprehensive solid waste management plan or ordinance; and

(b) All known and measurable costs related to implementation of the approved county or city comprehensive solid waste management plan.

(2) If a solid waste collection company files a tariff to recover the costs specified under this section, and the commission suspends the tariff, the portion of the tariff covering costs specified in this section shall be placed in effect by the commission at the request of the company on an interim basis as of the originally filed effective date, subject to refund, pending the commission's final order. The commission may adopt rules to implement this section.

(3) This section applies to a solid waste collection company that has an affiliated interest under chapter 81.16 RCW with a facility, if the total cost of disposal, including waste transfer, transport, and disposal charges, at the facility is equal to or lower than any other reasonable and currently available option. [1997 c 434 § 1; 1989 c 431 § 30.]

RCW 81.77.170 Fees, charges, or taxes—Normal operating expense. For rate-making purposes, a fee, charge, or tax on the collection or disposal of solid waste is considered a normal operating expense of the solid waste collection company, including all taxes and fees imposed or increased under chapter 44, Laws of 2015 3rd sp. sess. Filing for pass-through of any such fee, charge, or tax is not considered a general rate proceeding. [2015 3rd sp.s. c 44 § 424; 1989 c 431 § 36.]

Effective date—2015 3rd sp.s. c 44: See note following RCW 46.68.395.

RCW 81.77.180 Recyclable materials collection—Processing and marketing. (1) A solid waste collection company collecting recyclable materials from residences shall utilize one or more private recycling businesses when arranging for the processing and marketing of such materials, if the following conditions are met:

(a) A recycling business is located within the county at the time the collection program commences or at any time that the solid waste collection company changes its existing processor;

(b) A local private recycling business is capable and competent to provide the processing and marketing service; and

(c) A local private recycling business offers to pay a price for the recyclable materials which is equal to or greater than the price offered by out-of-county private recyclers, or proposes a charge for

the processing and marketing service which is equal to or less than the charge for the service available from an out-of-county private recycler.

(2) This section shall not apply to:

(a) Cities or towns who exercise their authority under RCW 81.77.130 to provide residential curbside collection of recyclable materials;

(b) A solid waste collection company that is directed by a city, town, or county to utilize a publicly owned recyclable processing facility located within such city, town, or county; or

(c) Counties which exercise their authority under RCW 36.58.040 to contract for the residential curbside collection of source separated recyclables.

This section shall not apply to programs for the collection of source separated recyclable materials where rates to implement the programs have been filed with the commission prior to May 21, 1991.

(3) For the purposes of this section, "private recycling business" means any private for-profit or private not-for-profit firm that engages in the processing and marketing of recyclable materials.

(4) This section is not enforceable by complaint filed with the commission. [1991 c 319 § 403.]

RCW 81.77.185 Recyclable materials collection—Revenue sharing—Report.

(1) The commission shall allow solid waste collection companies collecting recyclable materials to retain up to fifty percent of the revenue paid to the companies for the material if the companies submit a plan to the commission that is certified by the appropriate local government authority as being consistent with the local government solid waste plan and that demonstrates how the revenues will be used to increase recycling. The remaining revenue shall be passed to residential customers.

(2) By December 2, 2005, the commission shall provide a report to the legislature that evaluates:

(a) The effectiveness of revenue sharing as an incentive to increase recycling in the state; and

(b) The effect of revenue sharing on costs to customers. [2010 c 154 § 3; 2002 c 299 § 6.]

Intent—Scope of authority—2010 c 154: See notes following RCW 70A.205.040.

RCW 81.77.190 Curbside recycling—Reduced rate. (1) If the commission authorizes a surcharge or reduced rate incentive based on a customer's participation in a company's curbside residential recycling program, customers participating in any other noncurbside recycling program approved by the jurisdiction shall be eligible for such incentives.

(2) For the purpose of this section, "reduced rate" means a residential solid waste collection rate incorporating a rebate, refund, or discount. It does not include any residential solid waste collection rate based on the volume or weight of solid waste set out for collection. [1991 c 319 § 406.]

RCW 81.77.195 Discounts for low-income customers. Upon request of a county, the commission may approve rates, charges, or services at a discount for low-income senior customers and low-income customers, as adopted by the county in its comprehensive solid waste management plan. Expenses and lost revenues as a result of these discounts must be included in the company's cost of service and recovered in rates to other customers. [2010 c 154 § 4.]

Intent—Scope of authority—2010 c 154: See notes following RCW 70A.205.040.

RCW 81.77.200 Federal authority and registration for compensatory services. It is unlawful for any motor carrier to perform a transportation service for compensation upon the public highways of this state without first having secured appropriate federal authority from the United States department of transportation, if such authority is required, and without first having registered with the commission either directly or through a federally authorized uniform registration program. [2007 c 234 § 64.]

RCW 81.77.210 Protection of records containing commercial information. Records, subject to chapter 42.56 RCW, filed with the commission or the attorney general from any person that contain valuable commercial information, including trade secrets or confidential marketing, cost, or financial information, or customer-specific usage information, are not subject to inspection or copying under chapter 42.56 RCW: (1) Until notice to the person or persons directly affected has been given; and (2) if, within ten days of the notice, the person has obtained a superior court order protecting the records as confidential. The court must determine that the records are confidential and not subject to inspection and copying if disclosure is likely to result in private loss, including an unfair competitive disadvantage, and is not necessary for further public review and comment on the appropriate allocation of costs and revenues. When providing information to the commission or the attorney general, a person shall designate which records or portions of records contain valuable commercial information. Nothing in this section prevents the use of protective orders by the commission governing disclosure of proprietary or confidential information in contested proceedings. [2014 c 170 § 1.]