
SENATE BILL 5647

State of Washington

52nd Legislature

1991 Regular Session

By Senators Nelson, McMullen and Patterson; by request of Legislative Transportation Committee.

Read first time February 12, 1991. Referred to Committee on Transportation.

1 AN ACT Relating to regulation of steamboat operators; amending RCW
2 47.60.120, 81.84.010, 81.84.020, and 81.84.030; and adding new sections
3 to chapter 81.84 RCW.

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

5 **Sec. 1.** RCW 47.60.120 and 1984 c 7 s 307 are each amended to read
6 as follows:

7 (1) If (a) the department acquires or constructs, maintains, and
8 operates, or (b) the commission adopts a written resolution declaring
9 its intention to operate within two years, any ferry crossings upon or
10 toll bridges over Puget Sound or any of its tributary or connecting
11 waters, there shall not be constructed, operated, or maintained (i) any
12 other ferry crossing upon or bridge over any such waters within ten
13 miles of any such crossing or bridge operated or maintained by the
14 department or the subject of a commission resolution of intent to
15 maintain, or (ii) any other ferry crossing upon or bridge over any such

1 waters that is determined by the Washington utilities and
2 transportation commission to cause a reduction in passenger or vehicle
3 traffic of more than ten percent on any such crossing or bridge
4 operated or maintained by the department or the subject of a
5 transportation commission resolution of intent to maintain, excepting
6 such bridges or ferry crossings in existence, and being operated and
7 maintained under a lawfully issued franchise at the time of the
8 location of the ferry crossing or construction of the toll bridge by
9 the department.

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

14 (3) The Washington utilities and transportation commission shall
15 consider evidence presented by the bond covenant traffic engineering
16 firm appointed under RCW 47.60.450 in making its determination of
17 traffic reduction.

18 (4) The department shall not maintain and operate any ferry
19 crossing or toll bridge over Puget Sound or any of its tributary or
20 connecting waters that would infringe upon any franchise lawfully
21 issued by the state and in existence and being exercised on a regular
22 basis for a period of at least one hundred twenty consecutive days,
23 unless otherwise restricted by the franchise certificate or tariffs, at
24 the time of the location of the ferry crossing or toll bridge by the
25 department, without first acquiring the rights granted to such
26 franchise holder under the franchise. The Washington utilities and
27 transportation commission has sole authority to determine under its
28 powers granted by chapter 81.84 RCW whether the franchise has been
29 exercised on a regular basis for the one hundred twenty day period.

1 (5) While any revenue bonds issued by the department under the
2 provisions of this chapter are outstanding no additional bonds may be
3 issued for the purposes of acquiring, constructing, operating, or
4 maintaining any ferries or toll bridges within the aforesaid ten mile
5 distance by the department unless the revenues of any such additional
6 ferries or toll bridges are pledged to the bonds then outstanding to
7 the extent provided by the resolution authorizing the issue of the
8 outstanding bonds. The provisions of this section are binding upon the
9 state, and all of its departments, agencies, and instrumentalities, as
10 well as any and all private, political, municipal, and public
11 corporations and subdivisions, including cities, towns, counties, and
12 other political subdivisions, and the prohibitions of this section
13 shall restrict and limit the powers of the legislature of the state in
14 respect to the matters herein mentioned so long as any of such bonds
15 are outstanding and unpaid and shall be deemed to constitute a contract
16 to that effect for the benefit of the holders of all such bonds.

17 **Sec. 2.** RCW 81.84.010 and 1961 c 14 s 81.84.010 are each amended
18 to read as follows:

19 (1) No steamboat company shall hereafter operate any vessel or
20 ferry for the public use for hire between fixed termini or over a
21 regular route upon the waters within this state, including the rivers
22 and lakes and Puget Sound, without first applying for and obtaining
23 from the commission a certificate declaring that public convenience and
24 necessity require such operation. Certificates issued before or after
25 the effective date of this act to a steamboat operator shall be
26 exercised by the operator to the fullest possible extent so as to
27 render reasonable service to the public: PROVIDED, That no certificate
28 shall be required for a vessel primarily engaged in transporting
29 freight other than vehicles, whose gross earnings from the

1 transportation of passengers and/or vehicles, are not more than ten
2 percent of the total gross earnings of such vessel: PROVIDED, That
3 nothing herein shall be construed to affect the right of any county
4 within this state to construct, condemn, purchase, operate or maintain,
5 itself or by contract, agreement or lease, with any person, firm or
6 corporation, ferries or boats across or wharfs at or upon the waters
7 within this state, including rivers and lakes and Puget Sound, provided
8 such operation is not over the same route or between the same
9 districts, being served by a certificate carrier, nor shall this
10 chapter be construed to affect, amend or invalidate any contract
11 entered into prior to January 15, 1927, for the operation of ferries or
12 boats upon the waters within this state, which was entered into in good
13 faith by any county with any person, firm, or corporation, except that
14 in case of the operation or maintenance by any county, city, town, port
15 district, or other political subdivision by contract, agreement, or
16 lease with any person, firm, or corporation, of ferries or boats across
17 or wharfs at or upon the waters within this state, including rivers and
18 lakes and Puget Sound, the commission shall have power and authority to
19 regulate rates and services of such operation or maintenance of
20 ferries, boats, or wharfs, to make, fix, alter or amend said rates, and
21 to regulate service and safety of operations thereof, in the manner and
22 to the same extent as it is empowered to regulate a steamboat company,
23 notwithstanding the provisions of any act or parts of acts inconsistent
24 herewith.

25 (2) The holder of a certificate of public convenience and necessity
26 granted under this chapter must initiate service within one year of
27 obtaining the certificate.

28 **Sec. 3.** RCW 81.84.020 and 1961 c 14 s 81.84.020 are each amended
29 to read as follows:

1 (1) Upon the filing of an application the commission shall give
2 reasonable notice to the department, affected cities and counties, and
3 any common carrier which might be adversely affected, of the time and
4 place for hearing on such application. The commission shall have power
5 after hearing, to issue the certificate as prayed for, or to refuse to
6 issue it, or to issue it for the partial exercise only of the privilege
7 sought, and may attach to the exercise of the rights granted by said
8 certificate such terms and conditions as in its judgment the public
9 convenience and necessity may require; but the commission shall not
10 have power to grant a certificate to operate between districts and/or
11 into any territory prohibited by RCW 47.60.120 or already served by an
12 existing certificate holder, unless such existing certificate holder
13 (~~shall fail and refuse~~) has failed or refused to furnish reasonable
14 and adequate service or has failed to provide the type and frequency of
15 service described in its certificate or tariffs: PROVIDED, A
16 certificate shall be granted when it shall appear to the satisfaction
17 of the commission that such steamboat company was actually operating in
18 good faith over the route for which such certificate shall be sought,
19 on January 15, 1927: PROVIDED, FURTHER, That in case two or more
20 steamboat companies shall upon said date have been operating vessels
21 upon the same route, or between the same districts the commission shall
22 determine after public hearing whether one or more certificates shall
23 issue, and in determining to whom a certificate or certificates shall
24 be issued, the commission shall consider all material facts and
25 circumstances including the prior operation, schedules and services
26 rendered by either of said companies, and in case more than one
27 certificate shall issue, the commission shall fix and determine the
28 schedules and services of the companies to whom such certificates are
29 issued to the end that duplication of service be eliminated and public
30 convenience be furthered.

1 (2) Before issuing a certificate, the commission shall determine
2 that the applicant has the financial resources to operate the proposed
3 service for at least twelve months, regardless of revenue generated.
4 Issuance of a certificate shall be determined upon, but not limited to,
5 the following factors: Ridership and revenue forecasts indicating that
6 the service will be self-supporting after the initial twelve-month
7 period; the cost of service for the proposed operation; an estimate of
8 the cost of the assets to be used in providing the service, sworn to
9 before a notary public; a statement of the total assets on hand of the
10 applicant that will be expended on the proposed operation, sworn to
11 before a notary public; and a statement of prior experience, if any, in
12 such field by the applicant, sworn to before a notary public.

13 NEW SECTION. Sec. 4. A new section is added to chapter 81.84 RCW
14 to read as follows:

15 The commission, in granting a certificate to operate as a steamboat
16 company, shall require the operator to first obtain liability and
17 property damage insurance from a company licenced to write liability
18 insurance in the state or a surety bond of a company licensed to write
19 surety bonds in the state, on each vessel or ferry to be used, in the
20 amount of not less than twenty-five thousand dollars for any recovery
21 for personal injury by one person, and not less than ten thousand
22 dollars and in such additional amount as the commission shall
23 determine, for all persons receiving personal injury by reason of one
24 act of negligence, and not less than ten thousand dollars for damage to
25 property of any person other than the insured, and to maintain such
26 liability and property damage insurance or surety bond in force on each
27 vessel or ferry while so used. Each policy for liability or property
28 damage insurance or surety bond required by this section must be filed

1 with the commission and kept in full force and effect, and failure to
2 do so is cause for revocation of the operator's certificate.

3 **Sec. 5.** RCW 81.84.030 and 1961 c 14 s 81.84.030 are each amended
4 to read as follows:

5 No certificate or any right or privilege thereunder held, owned, or
6 obtained under the provisions of this chapter shall be sold, assigned,
7 leased, mortgaged, or in any manner transferred, either by the act of
8 the parties or by operation of law, except upon authorization by the
9 commission first obtained. ~~((The commission may at any time by its
10 order duly entered after hearing had upon notice to the holder of any
11 certificate hereunder and an opportunity to such holder to be heard,
12 suspend, revoke, alter, or amend any certificate issued under the
13 provisions of this chapter, if the holder thereof wilfully violates or
14 fails to observe the provisions or conditions of the certificate, or
15 the orders, rules or regulations of the commission, or the provisions
16 of this title.))~~

17 NEW SECTION. **Sec. 6.** A new section is added to chapter 81.84 RCW
18 to read as follows:

19 The commission, upon complaint by an interested party, or upon its
20 own motion after notice and opportunity for hearing, may cancel,
21 revoke, suspend, alter, or amend a certificate issued under this
22 chapter on any of the following grounds:

23 (1) Failure of the certificate holder to initiate service by the
24 end of the first twelve-month period after the certificate has been
25 granted;

26 (2) Failure of the certificate holder to file an annual report as
27 required under section 7 of this act;

1 (3) The filing by a certificate holder of an annual report that
2 shows no revenue in the previous twelve-month period;

3 (4) The violation of any provision of this chapter;

4 (5) The violation or failure to observe the provisions or
5 conditions of the certificate or tariffs;

6 (6) The violation of an order, decision, rule, regulation, or
7 requirement established by the commission under this chapter;

8 (7) Failure of a certificate holder to maintain the required
9 insurance coverage in full force and effect; or

10 (8) Failure of the certificate holder to operate to the fullest
11 extent possible so as to render reasonable service to the public.

12 The commission shall take action within thirty days upon a
13 complaint by an interested party or of its own finding that a provision
14 of this section has been violated.

15 NEW SECTION. **Sec. 7.** A new section is added to chapter 81.84 RCW
16 to read as follows:

17 (1) Every steamboat operator shall at the close of each year file
18 with the commission, a report covering the operations during the
19 preceding calendar year. The report must include a statement of gross
20 operating revenue for the vessel and route covered by the certificate
21 of public convenience and necessity and must contain the data and
22 information required by and be prepared on forms for that purpose
23 obtained from the commission. The annual report must be filed with the
24 commission as soon after the close of each calendar year as possible,
25 but in no event later than April 1st of the following year.

26 (2) Every steamboat operator shall on or before the first day of
27 April of each year file with the commission a statement showing the
28 gross operating revenue of such company for the preceding calendar
29 year. The annual report required by subsection (1) of this section

1 must contain the statement of gross operating revenue and other
2 information required by subsection (1) of this section.

3 NEW SECTION. **Sec. 8.** A new section is added to chapter 81.84 RCW
4 to read as follows:

5 The commission may, with or without a hearing, issue temporary
6 certificates to operate under this chapter, but only after it finds
7 that the issuance of the temporary certificate is necessary due to an
8 immediate and urgent need and is otherwise consistent with the public
9 interest. The certificate may be issued for a period of up to one
10 hundred eighty days. The commission may prescribe such special rules
11 and impose special terms and conditions on the granting of the
12 certificate as in its judgment are reasonable and necessary in carrying
13 out this chapter. The commission shall collect a filing fee, not to
14 exceed two hundred dollars, for each application for a temporary
15 certificate.