
HOUSE BILL 1931

State of Washington 53rd Legislature 1993 Regular Session

By Representatives Schmidt, Zellinsky and Wood

Read first time 02/17/93. 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, 81.84.030, 81.84.050, 81.04.010, and
3 81.24.030; adding new sections to chapter 81.84 RCW; and prescribing
4 penalties.

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

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

8 (1) If the department acquires or constructs, maintains, and
9 operates any ferry crossings upon or toll bridges over Puget Sound or
10 any of its tributary or connecting waters, there shall not be
11 constructed, operated, or maintained any other ferry crossing upon or
12 bridge over any such waters within ten miles of any such crossing or
13 bridge operated or maintained by the department excepting such bridges
14 or ferry crossings in existence, and being operated and maintained
15 under a lawfully issued franchise at the time of the location of the
16 ferry crossing or construction of the toll bridge by the department.

17 (2) The ten-mile distance in subsection (1) of this section means
18 ten statute miles measured by airline distance. The ten-mile

1 restriction shall be applied by comparing the two end points (termini)
2 of a state ferry crossing to those of a private ferry crossing.

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

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

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

28 (1) No (~~steamboat company shall~~) commercial ferry may hereafter
29 operate any vessel or ferry for the public use for hire between fixed
30 termini or over a regular route upon the waters within this state,
31 including the rivers and lakes and Puget Sound, without first applying
32 for and obtaining from the commission a certificate declaring that
33 public convenience and necessity require such operation. Service
34 authorized by certificates issued before or after the effective date of
35 this act to a commercial ferry operator shall be exercised by the
36 operator in a manner consistent with the conditions established in the
37 certificate or tariffs: PROVIDED, That no certificate shall be
38 required for a vessel primarily engaged in transporting freight other

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

26 (2) The holder of a certificate of public convenience and necessity
27 granted under this chapter must initiate service within five years of
28 obtaining the certificate. The certificate holder shall report to the
29 commission every six months after the certificate is granted on the
30 progress of the certificated route. The reports shall include, but not
31 be limited to, the progress of environmental impact, parking, local
32 government land use, docking, and financing considerations.

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

35 (1) Upon the filing of an application the commission shall give
36 reasonable notice to the department, affected cities and counties, and
37 any common carrier which might be adversely affected, of the time and
38 place for hearing on such application. The commission shall have power

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

28 (2) Before issuing a certificate, the commission shall determine
29 that the applicant has the financial resources to operate the proposed
30 service for at least twelve months, based upon the submission by the
31 applicant of a pro forma financial statement of operations. Issuance
32 of a certificate shall be determined upon, but not limited to, the
33 following factors: Ridership and revenue forecasts; the cost of
34 service for the proposed operation; an estimate of the cost of the
35 assets to be used in providing the service, sworn to before a notary
36 public; a statement of the total assets on hand of the applicant that
37 will be expended on the proposed operation, sworn to before a notary
38 public; and a statement of prior experience, if any, in such field by
39 the applicant, sworn to before a notary public.

1 (3) Subsection (2) of this section does not apply to an application
2 for a certificate that is pending as of the effective date of this act.

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

5 The commission, in granting a certificate to operate as a
6 commercial ferry, shall require the operator to first obtain liability
7 and property damage insurance from a company licensed to write
8 liability insurance in the state or a surety bond of a company licensed
9 to write surety bonds in the state, on each vessel or ferry to be used,
10 in the amount of not less than one hundred thousand dollars for any
11 recovery for personal injury by one person, and not less than one
12 million dollars and in such additional amount as the commission shall
13 determine, for all persons receiving personal injury by reason of one
14 act of negligence, and not less than fifty thousand dollars for damage
15 to property of any person other than the insured, and to maintain such
16 liability and property damage insurance or surety bond in force on each
17 vessel or ferry while so used. Each policy for liability or property
18 damage insurance or surety bond required by this section must be filed
19 with the commission and kept in full force and effect, and failure to
20 do so is cause for revocation of the operator's certificate.

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

23 No certificate or any right or privilege thereunder held, owned, or
24 obtained under the provisions of this chapter shall be sold, assigned,
25 leased, mortgaged, or in any manner transferred, either by the act of
26 the parties or by operation of law, except upon authorization by the
27 commission first obtained. ~~((The commission may at any time by its
28 order duly entered after hearing had upon notice to the holder of any
29 certificate hereunder and an opportunity to such holder to be heard,
30 suspend, revoke, alter, or amend any certificate issued under the
31 provisions of this chapter, if the holder thereof wilfully violates or
32 fails to observe the provisions or conditions of the certificate, or
33 the orders, rules or regulations of the commission, or the provisions
34 of this title.))~~

35 **Sec. 6.** RCW 81.84.050 and 1961 c 14 s 81.84.050 are each amended
36 to read as follows:

1 Every (~~steamboat company~~) commercial ferry and every officer,
2 agent, or employee of any (~~steamboat company~~) commercial ferry who
3 violates or who procures, aids, or abets in the violation of any
4 provision of this title, or any order, rule, regulation, or decision of
5 the commission shall incur a penalty of one hundred dollars for every
6 such violation. Each and every such violation shall be a separate and
7 distinct offense, and in case of a continuing violation every day's
8 continuance shall be and be deemed to be a separate and distinct
9 violation. Every act of commission or omission which procures, aids,
10 or abets in the violation shall be considered a violation under the
11 provisions of this section and subject to the penalty herein provided
12 for.

13 The penalty herein provided for shall become due and payable when
14 the person incurring the same receives a notice in writing from the
15 commission describing such violation with reasonable particularity and
16 advising such person that the penalty is due.

17 The commission may, upon written application therefor, received
18 within fifteen days, remit or mitigate any penalty provided for in this
19 section or discontinue any prosecution to recover the same upon such
20 terms as it in its discretion shall deem proper, and shall have
21 authority to ascertain the facts upon all such applications in such
22 manner and under such regulations as it may deem proper.

23 If the amount of such penalty is not paid to the commission within
24 fifteen days after receipt of notice imposing the same or, if
25 application for remission or mitigation has not been made, within
26 fifteen days after the violator has received notice of the disposition
27 of such application, the attorney general shall bring an action to
28 recover the penalty in the name of the state of Washington in the
29 superior court of Thurston county or of some other county in which such
30 violator may do business. In all such actions the procedure and rules
31 of evidence shall be the same as in ordinary civil actions except as
32 otherwise herein provided. All penalties recovered by the state under
33 this chapter shall be paid into the state treasury and credited to the
34 public service revolving fund.

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

37 The commission, upon complaint by an interested party, or upon its
38 own motion after notice and opportunity for hearing, may cancel,

1 revoke, suspend, alter, or amend a certificate issued under this
2 chapter on any of the following grounds:

3 (1) Failure of the certificate holder to initiate service by the
4 conclusion of the fifth year after the certificate has been granted if
5 the commission has considered the progress report information required
6 under RCW 81.84.010(2);

7 (2) Failure of the certificate holder to file an annual report as
8 required under section 8 of this act;

9 (3) The filing by a certificate holder of an annual report that
10 shows no revenue in the previous twelve-month period after service has
11 been initiated;

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

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

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

17 (7) Failure of a certificate holder to maintain the required
18 insurance coverage in full force and effect.

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

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

24 (1) Every commercial ferry operator shall at the close of each year
25 file with the commission, a report covering the operations during the
26 preceding calendar year. The report must include a statement of gross
27 operating revenue for the route covered by the certificate of public
28 convenience and necessity and must contain the data and information
29 required by and be prepared on forms for that purpose obtained from the
30 commission. The annual report must be filed with the commission as
31 soon after the close of each calendar year as possible, but in no event
32 later than April 1st of the following year.

33 (2) Every commercial ferry operator shall on or before the first
34 day of April of each year file with the commission a statement showing
35 the gross operating revenue of such company for the preceding calendar
36 year. The annual report required by subsection (1) of this section
37 must contain the statement of gross operating revenue and other
38 information required by subsection (1) of this section.

1 NEW SECTION. **Sec. 9.** A new section is added to chapter 81.84 RCW
2 to read as follows:

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

16 **Sec. 10.** RCW 81.04.010 and 1991 c 272 s 3 are each amended to read
17 as follows:

18 As used in this title, unless specially defined otherwise or unless
19 the context indicates otherwise:

20 "Commission" means the utilities and transportation commission.

21 "Commissioner" means one of the members of such commission.

22 "Corporation" includes a corporation, company, association, or
23 joint stock association.

24 "Low-level radioactive waste site operating company" includes every
25 corporation, company, association, joint stock association,
26 partnership, and person, their lessees, trustees, or receivers
27 appointed by any court whatsoever, owning, operating, controlling, or
28 managing a low-level radioactive waste disposal site or sites located
29 within the state of Washington.

30 "Low-level radioactive waste" means low-level waste as defined by
31 RCW 43.145.010.

32 "Person" includes an individual, a firm, or copartnership.

33 "Street railroad" includes every railroad by whatsoever power
34 operated, or any extension or extensions, branch or branches thereof,
35 for public use in the conveyance of persons or property for hire, being
36 mainly upon, along, above, or below any street, avenue, road, highway,
37 bridge, or public place within any one city or town, and includes all
38 equipment, switches, spurs, tracks, bridges, right of trackage,

1 subways, tunnels, stations, terminals, and terminal facilities of every
2 kind used, operated, controlled, or owned by or in connection with any
3 such street railroad, within this state.

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

10 "Railroad" includes every railroad, other than street railroad, by
11 whatsoever power operated for public use in the conveyance of persons
12 or property for hire, with all bridges, ferries, tunnels, equipment,
13 switches, spurs, tracks, stations, and terminal facilities of every
14 kind used, operated, controlled, or owned by or in connection with any
15 such railroad.

16 "Railroad company" includes every corporation, company,
17 association, joint stock association, partnership, or person, their
18 lessees, trustees, or receivers appointed by any court whatsoever,
19 owning, operating, controlling, or managing any railroad or any cars or
20 other equipment used thereon or in connection therewith within this
21 state.

22 "Express company" includes every corporation, company, association,
23 joint stock association, partnership, and person, their lessees,
24 trustees, or receivers appointed by any court whatsoever, who shall
25 engage in or transact the business of carrying any freight,
26 merchandise, or property for hire on the line of any common carrier
27 operated in this state.

28 "Common carrier" includes all railroads, railroad companies, street
29 railroads, street railroad companies, (~~steamboat companies~~)
30 commercial ferries, express companies, car companies, sleeping car
31 companies, freight companies, freight line companies, and every
32 corporation, company, association, joint stock association,
33 partnership, and person, their lessees, trustees, or receivers
34 appointed by any court whatsoever, and every city or town, owning,
35 operating, managing, or controlling any such agency for public use in
36 the conveyance of persons or property for hire within this state.

37 "Vessel" includes every species of watercraft, by whatsoever power
38 operated, for public use in the conveyance of persons or property for
39 hire over and upon the waters within this state, excepting all

1 towboats, tugs, scows, barges, and lighters, and excepting rowboats and
2 sailing boats under twenty gross tons burden, open steam launches of
3 five tons gross and under, and vessels under five tons gross propelled
4 by gas, fluid, naphtha, or electric motors.

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

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

15 "Transportation of persons" includes any service in connection with
16 the receiving, carriage, and delivery of the person transported and his
17 baggage and all facilities used, or necessary to be used in connection
18 with the safety, comfort, and convenience of the person transported.

19 "Public service company" includes every common carrier.

20 The term "service" is used in this title in its broadest and most
21 inclusive sense.

22 **Sec. 11.** RCW 81.24.030 and 1981 c 13 s 5 are each amended to read
23 as follows:

24 Every ~~((steamboat—company))~~ commercial ferry shall, on or before
25 the first day of April of each year, file with the commission a
26 statement on oath showing its gross operating revenue from intrastate
27 operations for the preceding calendar year, or portion thereof, and pay
28 to the commission a fee of two-fifths of one percent of the amount of
29 gross operating revenue: PROVIDED, That the fee so paid shall in no
30 case be less than five dollars. The percentage rate of gross operating
31 revenue to be paid in any year may be decreased by the commission by
32 general order entered before March 1st of such year.

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