

CERTIFICATION OF ENROLLMENT

SENATE BILL 5959

Chapter 188, Laws of 2003

(partial veto)

58th Legislature
2003 Regular Session

PERSONAL WIRELESS FACILITIES--HIGHWAY ACCESS

EFFECTIVE DATE: 7/27/03

Passed by the Senate April 22, 2003
YEAS 46 NAYS 1

BRAD OWEN

President of the Senate

Passed by the House April 11, 2003
YEAS 86 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved May 9, 2003, with the
exception of section 1, which is vetoed.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
SENATE BILL 5959 as passed by the
Senate and the House of
Representatives on the dates
hereon set forth.

MILTON H. DOUMIT JR.

Secretary

FILED

May 9, 2003 - 4:04 p.m.

**Secretary of State
State of Washington**

SENATE BILL 5959

AS AMENDED BY THE HOUSE

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By Senators Esser, Poulsen, Schmidt, Eide, Stevens, T. Sheldon,
Reardon and Finkbeiner

Read first time 02/25/2003. Referred to Committee on Technology &
Communications.

1 AN ACT Relating to allowing approaches to partially controlled
2 limited access highways for the deployment of personal wireless
3 facilities; amending RCW 47.52.001; and adding a new section to chapter
4 47.52 RCW.

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

6 **Sec. 1. RCW 47.52.001 and 1961 c 13 s 47.52.001 are each amended*
7 *to read as follows:*

8 *(1) Unrestricted access to and from public highways has resulted in*
9 *congestion and peril for the traveler. It has caused undue slowing of*
10 *all traffic in many areas. The investment of the public in highway*
11 *facilities has been impaired and highway facilities costing vast sums*
12 *of money will have to be relocated and reconstructed.*

13 *(2) Personal wireless service is a critical part of the state's*
14 *infrastructure. The rapid deployment of personal wireless facilities*
15 *is critical to ensure public safety, network access, quality of*
16 *service, and rural economic development.*

17 *(3) It is, therefore, the declared policy of this state to limit*
18 *access to the highway facilities of this state in the interest of*
19 *highway safety and for the preservation of the investment of the public*

1 in such facilities; however, approaches to partially controlled limited
2 access highways shall be permitted for the deployment of personal
3 wireless facilities.

*Sec. 1 was vetoed. See message at end of chapter.

4 NEW SECTION. Sec. 2. A new section is added to chapter 47.52 RCW
5 to read as follows:

6 (1) The department shall authorize an off and on approach to
7 partially controlled limited access highways for the placement and
8 service of facilities providing personal wireless services.

9 (a) The approach shall be in a legal manner not to exceed thirty
10 feet in width.

11 (b) The approach may be specified at a point satisfactory to the
12 department at or between designated highway stations.

13 (c) The permit holder may use the approach for ingress and egress
14 from the highway for construction or maintenance of the personal
15 wireless service facility during nonpeak traffic hours so long as
16 public safety is not adversely affected. The permit holder may use the
17 approach for ingress and egress at any time for the construction of the
18 facility if public safety is not adversely affected and if construction
19 will not substantially interfere with traffic flow during peak traffic
20 periods.

21 (2) The department shall authorize the approach by an annual
22 permit, which may only be canceled upon one hundred eighty days'
23 written notice to the permit holder.

24 (a) The department shall set the yearly cost of a permit in rule.

25 (b) The permit shall be assignable to the contractors and
26 subcontractors of the permit holder. The permit shall also be
27 transferable to a new owner following the sale or merger of the permit
28 holder.

29 (3) For the purposes of this section:

30 (a) "Personal wireless services" means any federally licensed
31 personal wireless service.

32 (b) "Facilities" means unstaffed facilities that are used for the
33 transmission or reception, or both, of wireless communication services
34 including, but not necessarily limited to, antenna arrays, transmission
35 cables, equipment shelters, and support structures.

36 (4) The department shall present a report to the house of
37 representatives technology, telecommunications, and energy committee

1 and the senate technology and communications committee on the
2 implementation of the permit process and the cost of permits by January
3 15, 2004, and by the first day of the legislative session following
4 adoption of any rule increasing the cost of permits.

Passed by the Senate April 22, 2003.

Passed by the House April 11, 2003.

Approved by the Governor May 9, 2003, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 9, 2003.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 1,
Senate Bill No. 5959, entitled:

"AN ACT Relating to allowing approaches to partially controlled
limited access highways for the deployment of personal wireless
facilities"

This bill establishes procedures for the Department of
Transportation to permit wireless telecommunications facilities to
be located along partially controlled limited access highways. This
is important legislation that will help expand telecommunications
services to underserved areas in our state and promote economic
development.

However, Section 1 of this bill would have amended RCW 47.52.001,
which is a declaration of state policy to limit access to the
highway facilities of the state in the interest of highway safety
and for the preservation of the investment of the public in such
facilities. The amendment would have created an inflexible
exception to this longstanding policy by stating that personal
wireless facilities "shall be permitted" along partially controlled
limited access highways, apparently without qualification. Insofar
as this section can be read to suggest that deployment of personal
wireless facilities is consistent with the state's interest in
highway safety, and that telecommunications deployment should take
precedence over it, I am compelled to veto it.

I agree with the Legislature that personal wireless service is a
critical part of the state's infrastructure, and I believe that
Department of Transportation policy should acknowledge this.
However, state policy should also ensure that telecommunications
deployment be achieved along state highways without adversely
affecting highway safety. For this reason, I believe the current
language in RCW 47.52.001, which "limits" but by no means prohibits
access to public highways, is the better statement of policy than
that contained in Section 1.

For these reasons, I have vetoed Section 1 of Senate Bill No. 5959.

With the exception of Section 1, Senate Bill No. 5959 is approved."