

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1536

Chapter 94, Laws of 2009

61st Legislature
2009 Regular Session

HOUSEHOLD GOODS CARRIERS--ADVERTISING--PERMITS

EFFECTIVE DATE: 07/26/09

Passed by the House March 4, 2009
Yeas 93 Nays 2

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 7, 2009
Yeas 41 Nays 3

BRAD OWEN

President of the Senate

Approved April 15, 2009, 11:16 a.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1536** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 15, 2009

**Secretary of State
State of Washington**

HOUSE BILL 1536

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Representatives Clibborn, Roach, Eddy, Morris, and Simpson; by request of Utilities & Transportation Commission

Read first time 01/22/09. Referred to Committee on Transportation.

1 AN ACT Relating to permits for and advertising by household goods
2 carriers; amending RCW 81.80.010, 81.80.040, 81.80.070, 81.80.357, and
3 81.80.280; adding new sections to chapter 81.80 RCW; and prescribing
4 penalties.

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

6 **Sec. 1.** RCW 81.80.010 and 2007 c 234 s 68 are each amended to read
7 as follows:

8 The definitions set forth in this section apply throughout this
9 chapter.

10 (1) "Person" includes an individual, firm, copartnership,
11 corporation, company, or association or their lessees, trustees, or
12 receivers.

13 (2) "Motor vehicle" means any truck, trailer, semitrailer, tractor,
14 dump truck which uses a hydraulic or mechanical device to dump or
15 discharge its load, or any self-propelled or motor-driven vehicle used
16 upon any public highway of this state for the purpose of transporting
17 property, but not including baggage, mail, and express transported on
18 the vehicles of auto transportation companies carrying passengers.

1 (3) "Public highway" means every street, road, or highway in this
2 state.

3 (4) "Common carrier" means any person who undertakes to transport
4 property for the general public by motor vehicle for compensation,
5 whether over regular or irregular routes, or regular or irregular
6 schedules, including motor vehicle operations of other carriers by rail
7 or water and of express or forwarding companies.

8 (5) "Contract carrier" includes all motor vehicle operators not
9 included under the terms "common carrier" and "private carrier" as
10 defined in this section, and further includes any person who under
11 special and individual contracts or agreements transports property by
12 motor vehicle for compensation.

13 (6) A "private carrier" is a person who transports by his or her
14 own motor vehicle, with or without compensation, property which is
15 owned or is being bought or sold by the person, or property where the
16 person is the seller, purchaser, lessee, or bailee and the
17 transportation is incidental to and in furtherance of some other
18 primary business conducted by the person in good faith.

19 (7) "Motor carrier" includes "common carrier," "contract carrier,"
20 "private carrier," and "exempt carrier" as defined in this section.

21 (8) "Exempt carrier" means any person operating a vehicle exempted
22 under RCW 81.80.040.

23 (9) "Vehicle" means every device capable of being moved upon a
24 public highway and in, upon, or by which any person or property is or
25 may be transported or drawn upon a public highway, except devices moved
26 by human or animal power or used exclusively upon stationary rail or
27 tracks.

28 (10) "Common carrier" and "contract carrier" includes persons
29 engaged in the business of providing, contracting for, or undertaking
30 to provide transportation of property for compensation over the public
31 highways of the state of Washington as brokers or forwarders.

32 (11) "Household goods carrier" means a person (~~engaged in the~~
33 ~~business of transporting~~) who transports for compensation, by motor
34 vehicle within this state, or who advertises, solicits, offers, or
35 enters into an agreement to transport household goods as defined by the
36 commission.

1 **Sec. 2.** RCW 81.80.040 and 1993 c 121 s 4 are each amended to read
2 as follows:

3 (1) The provisions of this chapter, except where specifically
4 otherwise provided, and except the provisions providing for licenses,
5 shall not apply to:

6 ~~((1))~~ (a) Motor vehicles when operated in transportation
7 exclusively within the corporate limits of any city or town of less
8 than ten thousand population unless contiguous to a city or town of ten
9 thousand population or over, nor between contiguous cities or towns
10 both or all of which are less than ten thousand population;

11 ~~((2))~~ (b) Motor vehicles when operated in transportation wholly
12 within the corporate limits of cities or towns of ten thousand or more
13 but less than thirty thousand population, or between such cities or
14 towns when contiguous, as to which the commission, after investigation
15 and the issuance of an order thereon, has determined that no
16 substantial public interest exists which requires that such
17 transportation be subject to regulation under this chapter;

18 ~~((3))~~ (c) Motor vehicles when transporting exclusively the United
19 States mail or in the transportation of newspapers or periodicals;

20 ~~((4))~~ (d) Motor vehicles owned and operated by the United States,
21 the state of Washington, or any county, city, town, or municipality
22 therein, or by any department of them, or either of them;

23 ~~((5))~~ (e) Motor vehicles specially constructed for towing not
24 more than two disabled, unauthorized, or repossessed motor vehicles,
25 wrecking, or exchanging an operable vehicle for a disabled vehicle and
26 not otherwise used in transporting goods for compensation. For the
27 purposes of this subsection (1)(e), a vehicle is considered to be
28 repossessed only from the time of its actual repossession through the
29 end of its initial tow;

30 ~~((6))~~ (f) Motor vehicles normally owned and operated by farmers
31 in the transportation of their own farm, orchard, or dairy products,
32 including livestock and plant or animal wastes, from point of
33 production to market, or in the infrequent or seasonal transportation
34 by one farmer for another farmer, if their farms are located within
35 twenty miles of each other, of products of the farm, orchard, or dairy,
36 including livestock and plant or animal wastes, or of supplies or
37 commodities to be used on the farm, orchard, or dairy;

1 ~~((7))~~ (g) Motor vehicles when transporting exclusively water in
2 connection with construction projects only;

3 ~~((8))~~ (h) Motor vehicles of less than 8,000 pounds gross vehicle
4 weight when transporting exclusively legal documents, pleadings,
5 process, correspondence, depositions, briefs, medical records,
6 photographs, books or papers, cash or checks, when moving shipments of
7 the documents described at the direction of an attorney as part of
8 providing legal services.

9 (2) The exemptions set forth in subsection (1)(a) and (b) of this
10 section do not apply to household goods carriers.

11 **Sec. 3.** RCW 81.80.070 and 2007 c 234 s 72 are each amended to read
12 as follows:

13 (1) A common carrier, contract carrier, or temporary carrier shall
14 not operate for the transportation of property for compensation in this
15 state without first obtaining from the commission a permit for such
16 operation.

17 ~~((a) For household goods:~~

18 ~~(i) Permits issued to any carrier must be exercised by the carrier
19 to the fullest extent to render reasonable service to the public.
20 Applications for household goods carrier permits or permit extensions
21 must be on file for a period of at least thirty days before issuance
22 unless the commission finds that special conditions require earlier
23 issuance.~~

24 ~~(ii) A permit or permit extension must be issued to any qualified
25 applicant, authorizing the whole or any part of the operations covered
26 by the application, if it is found that: The applicant is fit,
27 willing, and able to perform the services proposed and conform to this
28 chapter and the requirements, rules, and regulations of the commission;
29 the operations are consistent with the public interest; and, in the
30 case of common carriers, they are required by the present or future
31 public convenience and necessity; otherwise the application must be
32 denied.~~

33 ~~(b) For general commodities other than household goods:~~

34 ~~(i))~~ (2) The commission shall issue a common carrier permit to any
35 qualified applicant if it is found the applicant is fit, willing, and
36 able to perform the service and conform to the provisions of this
37 chapter and the rules and regulations of the commission.

1 ~~((ii))~~ (3) Before a permit is issued, the commission shall
2 require the applicant to establish safety fitness and proof of minimum
3 financial responsibility as provided in this chapter.

4 ~~((2) This chapter does not confer on any person or persons the
5 exclusive right or privilege of transporting property for compensation
6 over the public highways of the state.~~

7 ~~(3) A common carrier, contract carrier, or temporary carrier
8 operating without the permit required in subsection (1) of this
9 section, or who violates a cease and desist order of the commission
10 issued under RCW 81.04.510, is subject to a penalty, under the process
11 set forth in RCW 81.04.405, of one thousand five hundred dollars.~~

12 ~~(4) Notwithstanding RCW 81.04.510, the commission may, in
13 conjunction with issuing the penalty set forth in subsection (3) of
14 this section, issue cease and desist orders to carriers operating
15 without the permit required in subsection (1) of this section, and to
16 all persons involved in the carriers' operations.)~~

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 81.80 RCW
18 to read as follows:

19 (1) No person shall engage in business as a household goods carrier
20 without first obtaining a household goods carrier permit from the
21 commission.

22 (2) Permits issued to any household goods carrier must be exercised
23 by the carrier to the fullest extent to render reasonable service to
24 the public. Applications for household goods carrier permits or permit
25 extensions must be on file for a period of at least thirty days before
26 issuance unless the commission finds that special conditions require
27 earlier issuance.

28 (3) The commission must issue a permit or permit extension to any
29 qualified applicant, authorizing the whole or any part of the
30 operations covered by the application, if it is found that: The
31 applicant is fit, willing, and able to perform the services proposed
32 and conform to this chapter and the requirements, rules, and
33 regulations of the commission; the operations are consistent with the
34 public interest; and, in the case of common carriers, they are required
35 by the present or future public convenience and necessity; otherwise,
36 the application must be denied.

1 (4) Any person who engages in business as a household goods carrier
2 in violation of subsection (1) of this section is subject to a penalty
3 of up to five thousand dollars per violation.

4 (a) If the basis for the violation is advertising, each
5 advertisement reproduced, broadcast, or displayed via a particular
6 medium constitutes a separate violation.

7 (b) In deciding the amount of penalty to be imposed per violation,
8 the commission shall consider the following factors:

9 (i) The carrier's willingness to comply with the requirements of
10 RCW 81.80.070 and the commission's rules under this chapter; and

11 (ii) The carrier's history with respect to compliance with this
12 section.

13 (5) Any person who engages in business as a household goods carrier
14 in violation of a cease and desist order issued by the commission under
15 RCW 81.04.510 is subject to a penalty of up to ten thousand dollars per
16 violation.

17 NEW SECTION. **Sec. 5.** A new section is added to chapter 81.80 RCW
18 to read as follows:

19 This chapter does not confer on any person or persons the exclusive
20 right or privilege of transporting property for compensation over the
21 public highways of the state.

22 **Sec. 6.** RCW 81.80.357 and 1994 c 168 s 1 are each amended to read
23 as follows:

24 (1) No person in the business of transporting household goods as
25 defined by the commission in intrastate commerce shall advertise
26 without listing the carrier's Washington utilities and transportation
27 commission permit number, physical address, and telephone number in the
28 advertisement.

29 (2) (~~As of June 9, 1994,~~) All advertising, contracts,
30 correspondence, cards, signs, posters, papers, and documents, including
31 web sites or other online advertising, which show a household goods
32 (~~motor~~) carrier name (~~or address~~) shall also show the carrier's
33 Washington utilities and transportation commission permit number,
34 physical address, and telephone number. The alphabetized listing of
35 household (~~goods-motor~~) goods carriers appearing in the advertising
36 sections of telephone books or other directories and all advertising

1 that shows the carrier's name or address shall show the carrier's
2 current Washington utilities and transportation commission permit
3 number.

4 (3) Radio or television advertising (~~by electronic transmission~~)
5 need not contain the carrier's Washington utilities and transportation
6 commission permit number if the carrier provides its permit number,
7 physical address, and telephone number to the person selling the
8 advertisement and it is recorded in the advertising contract.

9 (4) No person shall falsify a Washington utilities and
10 transportation commission permit number or use a false or inaccurate
11 Washington utilities and transportation commission permit number in
12 connection with any solicitation or identification as an authorized
13 household goods (~~motor~~) carrier.

14 (5) If, upon investigation, the commission determines that a
15 (~~motor~~) household goods carrier or person acting in the capacity of
16 a (~~motor~~) household goods carrier has violated this section, the
17 commission may issue a penalty not to exceed five hundred dollars for
18 every violation.

19 **Sec. 7.** RCW 81.80.280 and 2007 c 234 s 85 are each amended to read
20 as follows:

21 (1) Permits may be canceled, suspended, altered, or amended by the
22 commission upon complaint by any interested party, or upon the
23 commission's own motion after notice and opportunity for hearing, when
24 the permittee or permittee's agent has repeatedly violated this
25 chapter, the rules and regulations of the commission, or the motor laws
26 of this state or of the United States, or the household goods carrier
27 has made unlawful rebates or has not conducted its operation in
28 accordance with the permit. The commission may enjoin any person from
29 any violation of this chapter, or any order, rule, or regulation made
30 by the commission pursuant to the terms hereof. If the suit is
31 instituted by the commission, a bond is not required as a condition to
32 the issuance of the injunction.

33 (2) When the commission has canceled a household goods carrier
34 permit, the carrier must, when directed by the commission, provide
35 notice to every customer that its permit has been canceled, and provide

1 proof of such notice to the commission.

Passed by the House March 4, 2009.

Passed by the Senate April 7, 2009.

Approved by the Governor April 15, 2009.

Filed in Office of Secretary of State April 15, 2009.