

CERTIFICATION OF ENROLLMENT

**ENGROSSED SENATE BILL 5894**

Chapter 557, Laws of 2009

61st Legislature  
2009 Regular Session

TRANSPORTATION SERVICES--RATE AND SERVICE REGULATION

EFFECTIVE DATE: 07/26/09

Passed by the Senate April 24, 2009  
YEAS 45 NAYS 1

BRAD OWEN

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**President of the Senate**

Passed by the House April 22, 2009  
YEAS 97 NAYS 0

FRANK CHOPP

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**Speaker of the House of Representatives**

Approved May 19, 2009, 10:55 a.m.

CHRISTINE GREGOIRE

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**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5894** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

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**Secretary**

FILED

May 20, 2009

**Secretary of State  
State of Washington**

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**ENGROSSED SENATE BILL 5894**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2009 Regular Session

**State of Washington**                      **61st Legislature**                      **2009 Regular Session**

**By** Senators Haugen and Parlette

Read first time 02/05/09. Referred to Committee on Transportation.

1            AN ACT Relating to authorizing the utilities and transportation  
2 commission to forbear from rate and service regulation of certain  
3 transportation services; amending RCW 81.68.015, 81.84.010, 81.66.010,  
4 and 81.70.220; reenacting and amending RCW 46.74.010; creating a new  
5 section; and providing an expiration date.

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

7            **Sec. 1.** RCW 81.68.015 and 2007 c 234 s 47 are each amended to read  
8 as follows:

9            This chapter does not apply to corporations or persons, their  
10 lessees, trustees, receivers, or trustees appointed by any court  
11 whatsoever insofar as they own, control, operate, or manage taxicabs,  
12 hotel buses, school buses, or any other carrier that does not come  
13 within the term "auto transportation company" as defined in RCW  
14 81.68.010.

15            This chapter does not apply to persons operating motor vehicles  
16 when operated wholly within the limits of incorporated cities or towns,  
17 and for a distance not exceeding three road miles beyond the corporate  
18 limits of the city or town in Washington in which the original starting

1 point of the vehicle is located, and which operation either alone or in  
2 conjunction with another vehicle or vehicles is not a part of any  
3 journey beyond the three-mile limit.

4 This chapter does not apply to commuter ride sharing or ride  
5 sharing for persons with special transportation needs in accordance  
6 with RCW 46.74.010, so long as the ride-sharing operation does not  
7 compete with or infringe upon comparable service actually being  
8 provided before the initiation of the ride-sharing operation by an  
9 existing auto transportation company certificated under this chapter.

10 This chapter does not apply to a service carrying passengers for  
11 compensation over any public highway in this state between fixed  
12 termini or over a regular route if the commission finds, with or  
13 without a hearing, that the service does not serve an essential  
14 transportation purpose, is solely for recreation, and would not  
15 adversely affect the operations of the holder of a certificate under  
16 this chapter, and that exemption from this chapter is otherwise in the  
17 public interest. Companies providing these services must, however,  
18 obtain a permit under chapter 81.70 RCW.

19 This chapter does not apply to a service carrying passengers for  
20 compensation over any public highway in this state between fixed  
21 termini or over a regular route if the commission finds, with or  
22 without a hearing, that the service is provided pursuant to a contract  
23 with a state agency, or funded by a grant issued by the department of  
24 transportation, and that exemption from this chapter is otherwise in  
25 the public interest. Companies providing these services must, however,  
26 obtain a permit under chapter 81.70 RCW.

27 **Sec. 2.** RCW 81.84.010 and 2007 c 234 s 92 are each amended to read  
28 as follows:

29 (1) A commercial ferry may not operate any vessel or ferry for the  
30 public use for hire between fixed termini or over a regular route upon  
31 the waters within this state, including the rivers and lakes and Puget  
32 Sound, without first applying for and obtaining from the commission a  
33 certificate declaring that public convenience and necessity require  
34 such operation. Service authorized by certificates issued (~~before or~~  
35 ~~after July 25, 1993,~~) to a commercial ferry operator must be exercised  
36 by the operator in a manner consistent with the conditions established  
37 in the certificate (~~(or)~~) and tariff(~~(s)~~) filed under chapter 81.28

1 RCW. However, a certificate is not required for a vessel primarily  
2 engaged in transporting freight other than vehicles, whose gross  
3 earnings from the transportation of passengers or vehicles, or both,  
4 are not more than ten percent of the total gross annual earnings of  
5 such vessel.

6 (2) If the commission finds, after a hearing, that an existing or  
7 a proposed commercial ferry service does not serve an essential  
8 transportation purpose and is solely for recreation, the commission  
9 may, by order, exempt that service from the requirements of  
10 certification and regulation under this chapter. If the nonessential  
11 service is a proposed service not already provided by an existing  
12 certificate holder, the commission must also find, after notice to any  
13 existing certificate holder operating within the same territory and an  
14 opportunity to be heard, that the proposed service would not adversely  
15 affect the rates or services of any existing certificate holder.

16 (3) This section does not affect the right of any county public  
17 transportation benefit area or other public agency within this state to  
18 construct, condemn, purchase, operate, or maintain, itself or by  
19 contract, agreement, or lease, with any person, firm, or corporation,  
20 ferries or boats across the waters within this state, including rivers  
21 and lakes and Puget Sound, if the operation is not over the same route  
22 or between the same districts being served by a certificate holder  
23 without first acquiring the rights granted to the certificate holder  
24 under the certificate.

25 ~~((+2))~~ (4) The holder of a certificate of public convenience and  
26 necessity granted under this chapter must initiate service within five  
27 years of obtaining the certificate, except that the holder of a  
28 certificate of public convenience and necessity for passenger-only  
29 ferry service in Puget Sound must initiate service within twenty months  
30 of obtaining the certificate. The certificate holder shall report to  
31 the commission every six months after the certificate is granted on the  
32 progress of the certificated route. The reports shall include, but not  
33 be limited to, the progress of environmental impact, parking, local  
34 government land use, docking, and financing considerations. Except in  
35 the case of passenger-only ferry service in Puget Sound, if service has  
36 not been initiated within five years of obtaining the certificate, the  
37 commission may extend the certificate on a twelve-month basis for up to

1 three years if the six-month progress reports indicate there is  
2 significant advancement toward initiating service.

3 **Sec. 3.** RCW 81.66.010 and 1996 c 244 s 1 are each amended to read  
4 as follows:

5 The definitions set forth in this section shall apply throughout  
6 this chapter, unless the context clearly indicates otherwise.

7 (1) "Corporation" means a corporation, company, association, or  
8 joint stock association.

9 (2) "Person" means an individual, firm, or a copartnership.

10 (3) "Private, nonprofit transportation provider" means any private,  
11 nonprofit corporation providing transportation services for  
12 compensation solely to persons with special transportation needs, or  
13 pursuant to a contract with a state agency or funded by a grant issued  
14 by the department of transportation.

15 (4) "Persons with special transportation needs" means those  
16 persons, including their personal attendants, who because of physical  
17 or mental disability, income status, or age are unable to transport  
18 themselves or to purchase appropriate transportation.

19 **Sec. 4.** RCW 81.70.220 and 1989 c 163 s 7 are each amended to read  
20 as follows:

21 (1) No person may engage in the business of a charter party carrier  
22 or excursion service carrier of persons over any public highway without  
23 first having obtained a certificate from the commission to do so or  
24 having registered as an interstate carrier.

25 (2) An auto transportation company carrying passengers for  
26 compensation over any public highway in this state between fixed  
27 termini or over a regular route that is not required to hold an auto  
28 transportation certificate because of a commission finding under RCW  
29 81.68.015 must obtain a certificate under this chapter.

30 **Sec. 5.** RCW 46.74.010 and 1997 c 250 s 8 and 1997 c 95 s 1 are  
31 each reenacted and amended to read as follows:

32 The definitions set forth in this section shall apply throughout  
33 this chapter, unless the context clearly indicates otherwise.

34 (1) "Commuter ride sharing" means a car pool or van pool  
35 arrangement whereby one or more fixed groups not exceeding fifteen

1 persons each including the drivers, and (a) not fewer than five persons  
2 including the drivers, or (b) not fewer than four persons including the  
3 drivers where at least two of those persons are confined to wheelchairs  
4 when riding, are transported in a passenger motor vehicle with a gross  
5 vehicle weight not exceeding ten thousand pounds, excluding special  
6 rider equipment, between their places of abode or termini near such  
7 places, and their places of employment or educational or other  
8 institutions, each group in a single daily round trip where the drivers  
9 are also on the way to or from their places of employment or  
10 educational or other institution.

11 (2) "Flexible commuter ride sharing" means a car pool or van pool  
12 arrangement whereby a group of at least two but not exceeding fifteen  
13 persons including the driver is transported in a passenger motor  
14 vehicle with a gross vehicle weight not exceeding ten thousand pounds,  
15 excluding special rider equipment, between their places of abode or  
16 termini near such places, and their places of employment or educational  
17 or other institutions, where the driver is also on the way to or from  
18 his or her place of employment or educational or other institution.

19 (3) "Ride sharing for persons with special transportation needs"  
20 means an arrangement whereby a group of persons with special  
21 transportation needs, and their attendants, is transported by a public  
22 social service agency or a private, nonprofit transportation provider,  
23 as defined in RCW 81.66.010(3), serving persons with special needs, in  
24 a passenger motor vehicle as defined by the department to include small  
25 buses, cutaways, and modified vans not more than twenty-eight feet  
26 long: PROVIDED, That the driver need not be a person with special  
27 transportation needs.

28 (4) "Ride-sharing operator" means the person, entity, or concern,  
29 not necessarily the driver, responsible for the existence and  
30 continuance of commuter ride sharing, flexible commuter ride sharing,  
31 or ride sharing for persons with special transportation needs. The  
32 term "ride-sharing operator" includes but is not limited to an  
33 employer, an employer's agent, an employer-organized association, a  
34 state agency, a county, a city, a public transportation benefit area,  
35 or any other political subdivision that owns or leases a ride-sharing  
36 vehicle.

37 (5) "Ride-sharing promotional activities" means those activities  
38 involved in forming a commuter ride-sharing arrangement or a flexible

1 commuter ride-sharing arrangement, including but not limited to  
2 receiving information from existing and prospective ride-sharing  
3 participants, sharing that information with other existing and  
4 prospective ride-sharing participants, matching those persons with  
5 other existing or prospective ride-sharing participants, and making  
6 assignments of persons to ride-sharing arrangements.

7 (6) "Persons with special transportation needs" means those persons  
8 defined in RCW 81.66.010(4).

9 NEW SECTION. **Sec. 6.** (1) Within its existing resources, the  
10 utilities and transportation commission shall study the appropriateness  
11 of rate and service regulation of commercial ferries operating on Lake  
12 Chelan. The commission shall report its findings and recommendations  
13 to the legislature by December 31, 2009.

14 (2) This section expires December 31, 2009.

Passed by the Senate April 24, 2009.

Passed by the House April 22, 2009.

Approved by the Governor May 19, 2009.

Filed in Office of Secretary of State May 20, 2009.