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**SUBSTITUTE SENATE BILL 5362**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2015 Regular Session

**State of Washington                      64th Legislature                      2015 Regular Session**

**By Senate Transportation (originally sponsored by Senators King and Liias; by request of Utilities & Transportation Commission)**

READ FIRST TIME 02/17/15.

1            AN ACT Relating to the regulation of passenger charter and  
2 excursion carriers; amending RCW 81.70.020, 81.70.030, 81.70.220,  
3 81.70.260, 81.70.320, 81.70.350, and 81.70.360; adding new sections  
4 to chapter 81.70 RCW; and prescribing penalties.

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

6            **Sec. 1.** RCW 81.70.020 and 2007 c 234 s 55 are each amended to  
7 read as follows:

8            Unless the context otherwise requires, the definitions and  
9 general provisions in this section govern the construction of this  
10 chapter:

11            (1) "Commission" means the Washington utilities and  
12 transportation commission;

13            (2) "Person or persons" means an individual, a corporation,  
14 association, joint stock association, and partnership, their lessees,  
15 trustees, or receivers;

16            (3) "Public highway" includes every public street, road, or  
17 highway in this state;

18            (4) "Motor vehicle" means every self-propelled vehicle with  
19 seating capacity for seven or more persons, excluding the driver;

20            (5) Subject to the exclusions of RCW 81.70.030, "charter party  
21 carrier" means every person engaged in the transportation over any

1 public highways in this state of a group of persons, who, pursuant to  
2 a common purpose and under a single contract, acquire the use of a  
3 motor vehicle to travel together as a group to a specified  
4 destination or for a particular itinerary, either agreed upon in  
5 advance or modified by the chartered group after leaving the place of  
6 origin;

7 (6) Subject to the exclusion of RCW 81.70.030, "excursion service  
8 carrier" means every person engaged in the transportation of persons  
9 for compensation over any public highway in this state from points of  
10 origin within the incorporated limits of any city or town or area, to  
11 any other location within the state of Washington and returning to  
12 that origin. The service must not pick up or drop off passengers  
13 after leaving and before returning to the area of origin. The  
14 excursions may be regularly scheduled. Compensation for the  
15 transportation offered or afforded must be computed, charged, or  
16 assessed by the excursion service company on an individual fare  
17 basis;

18 (7) "Customer" means a person, corporation, or other entity that  
19 prearranges for transportation services with a charter party carrier  
20 or purchases a ticket for transportation services aboard an excursion  
21 service carrier;

22 (8) "Double-decker bus" means a motor vehicle with more than one  
23 passenger deck. A person using a double-decker bus must comply with  
24 the maximum height vehicle requirements contained in RCW 46.44.020;

25 (9) Subject to the exclusions of RCW 81.70.030, "party bus" means  
26 any motor vehicle whose interior enables passengers to stand and  
27 circulate throughout the vehicle because seating is placed around the  
28 perimeter of the bus or is nonexistent and in which food, beverages,  
29 or entertainment may be provided. A motor vehicle configured in the  
30 traditional manner of forward-facing seating with a center aisle is  
31 not a party bus. A person engaged in the transportation of persons by  
32 party bus over any public highway in this state is considered  
33 engaging in the business of a charter party carrier or excursion  
34 service carrier;

35 (10) "Permit holder" means a holder of an appropriate special  
36 permit issued under chapter 66.20 RCW who is twenty-one years of age  
37 or older and who is responsible for compliance with the requirements  
38 of section 8 of this act and chapter 66.20 RCW during the provision  
39 of transportation services.

1       **Sec. 2.** RCW 81.70.030 and 2007 c 234 s 56 are each amended to  
2 read as follows:

3       This chapter does not apply to:

4       (1) ~~((Persons operating motor vehicles wholly within the limits~~  
5 ~~of incorporated cities;~~

6       ~~(2))~~ Persons or their lessees, receivers, or trustees insofar as  
7 they own, control, operate, or manage taxicabs, hotel buses, or  
8 school buses, when operated as such;

9       ~~((3))~~ (2) Passenger vehicles carrying passengers on a  
10 noncommercial enterprise basis; or

11       ~~((4))~~ (3) Limousine charter party carriers of passengers under  
12 chapter 46.72A RCW.

13       **Sec. 3.** RCW 81.70.220 and 2009 c 557 s 4 are each amended to  
14 read as follows:

15       (1) No person may engage in the business of a charter party  
16 carrier or excursion service carrier of ~~((persons))~~ passengers over  
17 any public highway without first having obtained a certificate from  
18 the commission to do so or having registered as an interstate  
19 carrier. For the purposes of this section, "engage in the business of  
20 a charter party carrier or excursion service carrier" includes  
21 advertising or soliciting, offering, or entering into an agreement to  
22 provide such service. Each advertisement reproduced, broadcast, or  
23 displayed via a particular medium constitutes a separate violation  
24 under this chapter.

25       (2) Any person who engages in the business of a charter party  
26 carrier or excursion service carrier in violation of subsection (1)  
27 of this section is subject to a penalty of up to five thousand  
28 dollars per violation.

29       (3) An auto transportation company carrying passengers for  
30 compensation over any public highway in this state between fixed  
31 termini or over a regular route that is not required to hold an auto  
32 transportation certificate because of a commission finding under RCW  
33 81.68.015 must obtain a certificate under this chapter.

34       **Sec. 4.** RCW 81.70.260 and 1989 c 163 s 9 are each amended to  
35 read as follows:

36       (1) After the cancellation or revocation of a certificate or  
37 interstate registration or during the period of its suspension, it is  
38 unlawful for a charter party carrier or excursion service carrier of

1 passengers to conduct any operations as such a carrier. For the  
2 purposes of this section, "conduct any operations" includes  
3 advertising or soliciting, offering, or entering into an agreement to  
4 provide such service. Each advertisement reproduced, broadcast, or  
5 displayed via a particular medium constitutes a separate violation  
6 under this chapter.

7 (2) Any person who conducts operations as a charter party carrier  
8 or excursion service carrier of passengers in violation of subsection  
9 (1) of this section is subject to a penalty of up to five thousand  
10 dollars per violation.

11 **Sec. 5.** RCW 81.70.320 and 2007 c 234 s 61 are each amended to  
12 read as follows:

13 (1) An application for a certificate, amendment of a certificate,  
14 or transfer of a certificate must be accompanied by a filing fee the  
15 commission may prescribe by rule. The fee must not exceed two hundred  
16 dollars.

17 (2) All fees paid to the commission under this chapter must be  
18 deposited in the state treasury to the credit of the public service  
19 revolving fund.

20 (3) It is the intent of the legislature that all fees collected  
21 under this chapter must reasonably approximate the cost of  
22 supervising and regulating charter party carriers and excursion  
23 service carriers subject thereto, and to that end the commission may  
24 decrease the schedule of fees provided for in RCW 81.70.350 by  
25 general order entered before (~~November~~) March 1st of any year in  
26 which the commission determines that the moneys, then in the charter  
27 party carrier and excursion service carrier account of the public  
28 service revolving fund, and the fees currently owed will exceed the  
29 reasonable cost of supervising and regulating such carriers during  
30 the succeeding calendar year. Whenever the cost accounting records of  
31 the commission indicate that the schedule of fees previously reduced  
32 should be increased, the increase, not to exceed the schedule set  
33 forth in this chapter, may be effected by a similar general order  
34 entered before (~~November~~) March 1st of any calendar year.

35 **Sec. 6.** RCW 81.70.350 and 1994 c 83 s 3 are each amended to read  
36 as follows:

37 (1) The commission shall collect from each charter party carrier  
38 and excursion service carrier holding a certificate issued pursuant

1 to this chapter and from each interstate or foreign carrier subject  
2 to this chapter an annual regulatory fee, to be established by the  
3 commission but which in total shall not exceed the cost of  
4 supervising and regulating such carriers, for each bus used by such  
5 carrier.

6 (2) ~~((All))~~ The fee~~((s))~~ prescribed ~~((by))~~ under this section  
7 ~~((shall be))~~ is due and payable on or before ~~((December 31))~~ May 1st  
8 of each year, to cover operations during the ~~((ensuing))~~ calendar  
9 year ~~((beginning February 1))~~ in which the fee is paid.

10 (3) Any payment of the fee imposed by this section made after its  
11 due date shall include a late fee of two percent of the amount due.  
12 Delinquent fees shall accrue interest at the rate of one percent per  
13 month.

14 **Sec. 7.** RCW 81.70.360 and 1984 c 166 s 5 are each amended to  
15 read as follows:

16 No excursion service company may operate for the transportation  
17 of persons for compensation without first having obtained from the  
18 commission under the provisions of this chapter a certificate to do  
19 so. For the purposes of this section, "operate for the transportation  
20 of persons for compensation" includes advertising or soliciting,  
21 offering, or entering into an agreement to provide such service.

22 A certificate shall be issued to any qualified applicant  
23 therefor, authorizing the whole or any part of the operations covered  
24 by the application, if it is found that the applicant is fit,  
25 willing, and able to properly perform the services proposed and  
26 conform to the provisions of this chapter and the rules of the  
27 commission adopted under this chapter, and that such operations will  
28 be consistent with the public interest. ~~((However, a certificate~~  
29 ~~shall be granted when it appears to the satisfaction of the~~  
30 ~~commission that the person, firm, or corporation was actually~~  
31 ~~operating in good faith that type of service for which the~~  
32 ~~certificate was sought on January 15, 1983.)) Any right, privilege,~~  
33 or certificate held, owned, or obtained by an excursion service  
34 company may be sold, assigned, leased, transferred, or inherited as  
35 other property only upon authorization by the commission. For good  
36 cause shown the commission may refuse to issue the certificate, or  
37 issue it for the partial exercise only of the privilege sought, and  
38 may attach to the exercise of the rights granted by the certificate

1 such terms and conditions as, in its judgment, the public interest  
2 may require.

3 NEW SECTION. **Sec. 8.** A new section is added to chapter 81.70  
4 RCW to read as follows:

5 (1)(a) A charter party carrier or excursion service carrier  
6 operating a party bus must determine whether alcoholic beverages will  
7 be served or consumed in the passenger compartment of the vehicle. If  
8 it is expected that alcoholic beverages will be served or consumed in  
9 the passenger compartment, the permit holder must have obtained the  
10 appropriate liquor permit, provided a copy of the permit to the  
11 charter party carrier or excursion service carrier in advance of the  
12 trip, and be on the vehicle or reasonably proximate and available to  
13 the vehicle during the transportation service. The company must  
14 maintain the copy of the permit required with the contract of  
15 carriage.

16 (b) If the charter party carrier or excursion service carrier  
17 operating a party bus is the permit holder, the carrier must have a  
18 person separate from the driver be responsible for the permit holder  
19 requirements in this section and either chapter 66.20 or 66.24 RCW.

20 (c) The permit holder must:

21 (i) Be on the party bus or reasonably proximate and available to  
22 the vehicle during the transportation service;

23 (ii) Monitor and control party activities in a manner to prevent  
24 the driver from being distracted by the party activities; and

25 (iii) Assume responsibility for compliance with the terms of the  
26 special permit, if a permit is required, including compliance with  
27 RCW 66.44.270 concerning the prohibition against furnishing liquor to  
28 minors.

29 (2) If at any time the charter party carrier or excursion service  
30 carrier operating a party bus believes that conditions aboard the  
31 vehicle are unsafe due to party activities involving alcohol, the  
32 carrier must remove all alcoholic beverages and lock them in the  
33 party bus trunk or other locked compartment. The carrier may cancel  
34 the trip and return the passengers to the place of origin.

35 (3) This section does not limit the right of a charter party  
36 carrier or excursion service carrier to prohibit the consumption of  
37 alcohol aboard the vehicle.

1 (4) This section does not limit the right of a permit holder to  
2 seek indemnity from any person, corporation, or other entity other  
3 than the charter party carrier or excursion service carrier.

4 (5) This section does not relieve a passenger of legal  
5 responsibility for his or her own conduct or the permit holder of  
6 legal responsibility for compliance with Title 66 RCW.

7 (6) Any charter party carrier or excursion service carrier in  
8 violation of this section is subject to a penalty of up to five  
9 thousand dollars per violation.

10 NEW SECTION. **Sec. 9.** A new section is added to chapter 81.70  
11 RCW to read as follows:

12 (1) A charter party carrier or excursion service carrier may not  
13 knowingly allow any passenger to smoke aboard a motor vehicle  
14 regulated under this chapter.

15 (2) For the purposes of this section, "smoke" has the same  
16 meaning as defined in RCW 70.160.020.

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