

Chapter 81.28 RCW
COMMON CARRIERS IN GENERAL

Sections

- 81.28.010 Duties as to rates, services, and facilities.
- 81.28.020 Duty of carriers to expedite traffic.
- 81.28.030 Routing of freight—Connecting companies—Damages.
- 81.28.040 Tariff schedules to be filed with commission—Public schedules—Commission's powers as to schedules.
- 81.28.050 Tariff changes—Notice—Exception—Waiver of provisions during state of emergency.
- 81.28.060 Joint rates, contracts, etc.
- 81.28.080 Published rates to be charged—Exceptions—Definitions.
- 81.28.180 Rate discrimination prohibited.
- 81.28.190 Unreasonable preferences and prejudices prohibited.
- 81.28.200 Long and short haul.
- 81.28.210 Transportation at less than published rates—Rebating—False representation.
- 81.28.220 Action for treble damages.
- 81.28.230 Commission to fix just, reasonable, and compensatory rates.
- 81.28.240 Commission may order improved facilities and service.
- 81.28.250 Investigation and determination of interstate rates—Application for federal relief.
- 81.28.260 Bicycles as baggage on commercial ferries.
- 81.28.270 Limitation of action for collection of transportation charges.
- 81.28.280 Reports of wrecks, etc.
- 81.28.290 Investigation of accidents, wrecks.
- 81.28.900 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

Charges, prohibition against discrimination: State Constitution Art. 12 s 15.

Common carrier may bridge state waterway: RCW 79.110.130.

Constitutional limitations generally: State Constitution Art. 12.

Department of transportation as common carrier: RCW 47.60.220.

Free transportation to public officers prohibited: State Constitution Art. 2 s 39.

Legislature may establish maximum rates for transportation: State Constitution Art. 12 s 18.

Lien for transportation, storage, etc.: Chapter 60.60 RCW.

Monopolies and trusts prohibited: State Constitution Art. 12 s 22.

Municipal transportation systems: Title 35 RCW.

Regulation of common carriers: State Constitution Art. 12 s 13.

RCW 81.28.010 Duties as to rates, services, and facilities. All charges made for any service rendered or to be rendered in the transportation of persons or property, or in connection therewith, by any common carrier subject to regulation by the commission as to rates and service, or by any two or more such common carriers, must be just, fair, reasonable, and sufficient.

Every common carrier shall construct, furnish, maintain and provide, safe, adequate, and sufficient service facilities and equipment to enable it to promptly, expeditiously, safely, and properly receive, transport, and deliver all persons or property offered to or received by it for transportation, and to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.

All rules and regulations issued by any such common carrier affecting or pertaining to the transportation of persons or property must be just and reasonable. [2007 c 234 s 22; 1961 c 14 s 81.28.010. Prior: 1911 c 117 s 9; RRS s 10345.]

RCW 81.28.020 Duty of carriers to expedite traffic. Every common carrier subject to regulation by the commission as to rates and service shall under reasonable rules and regulations promptly and expeditiously receive, transport, and deliver all persons or property offered to or received by it for transportation. [2007 c 234 s 23; 1961 c 14 s 81.28.020. Prior: 1911 c 117 s 10; RRS s 10346.]

RCW 81.28.030 Routing of freight—Connecting companies—Damages. All common carriers subject to regulation by the commission as to rates and service and doing business wholly within this state shall, upon receipt of any article of freight, promptly forward the same to its marked destination, by the route directed by the shipper, or if no directions are given by shipper, then to any connecting company whose line or route reaches nearest to the point to which such freight is marked.

Any such common carrier failing to comply with this section is liable for any damages that may be sustained, either to the shipper or consignee, from any cause, upon proof that the damages resulted from a failure of the transportation company to comply with this section.

Suit for damages may be instituted either at the place of shipping or destination, either by the shipper or consignee, and before any court competent and qualified to hear and determine like causes between persons who reside in the court's district. [2007 c 234 s 24; 1961 c 14 s 81.28.030. Prior: (i) 1890 p 291 s 1; RRS s 10491. (ii) 1890 p 291 s 2; RRS s 10492. (iii) 1890 p 291 s 3; RRS s 10493.]

RCW 81.28.040 Tariff schedules to be filed with commission—Public schedules—Commission's powers as to schedules. Every common carrier subject to regulation by the commission as to rates and service shall file with the commission and shall print and keep open for public inspection, schedules showing the rates, fares, charges, and classification for the transportation of persons and property within the state between each point upon the carrier's route and all other points thereon; and between each point upon its route and all

points upon every route leased, operated, or controlled by it; and between each point on its route or upon any route leased, operated, or controlled by it and all points upon the route of any other common carrier, whenever a through route and joint rate have been established or ordered between any two such points. If no joint rate over a through route has been established, the several carriers participating in the through route shall file, print, and keep open for public inspection, the separately established rates, fares, charges, and classifications that apply to the through transportation. The schedules printed must: Plainly state the places between which property and persons are carried; contain classification of passengers or property in force; and state separately all terminal charges, storage charges, icing charges, all other charges that the commission may require to be stated, all privileges or facilities granted or allowed, and any rules or regulations that may in any way change, affect, or determine any part, or the aggregate of, such rates, fares, and charges, or the value of the service rendered to the passenger, shipper, or consignee. The schedule must be plainly printed in large type, and a copy of it shall be kept by every carrier readily accessible to inspection by the public in every station or office of the carrier where passengers or property are respectively received for transportation, when the station or office is in charge of any agent. All of the schedules kept as provided in this section must be immediately produced by the carrier for inspection upon the demand of any person. A notice printed in bold type and stating that the schedules are on file with the agent and open to inspection by any person and that the agent will assist any person to determine from the schedules any transportation rates or fares or rules or regulations that are in force must be kept posted by the carrier in two public and conspicuous places in every such station or office. The form of each schedule must be prescribed by the commission.

The commission may, from time to time, determine and prescribe by order such changes in the form of the schedules as may be found expedient, and modify the requirements of this section in respect to publishing, posting, and filing of schedules either in particular instances or by general rule or order applicable to special or peculiar circumstances or conditions.

The commission may suspend the operation of this section in whole or in part as applied to vessels engaged in jobbing business not operating on regular routes. [2007 c 234 s 25; 1984 c 143 s 4; 1961 c 14 s 81.28.040. Prior: 1911 c 117 s 14; RRS s 10350.]

RCW 81.28.050 Tariff changes—Notice—Exception—Waiver of provisions during state of emergency. Unless the commission otherwise orders, a change may not be made to any classification, rate, fare, charge, rule, or regulation filed and published by a common carrier subject to regulation by the commission as to rates and service, except after thirty days' notice to the commission and to the public. In the case of a solid waste collection company, a change may not be made except after forty-five days' notice to the commission and to the public. The notice must be published as provided in RCW 81.28.040 and must plainly state the changes proposed to be made in the schedule then in force and the time when the changed rate, classification, fare, or charge will go into effect. All proposed changes must be shown by printing, filing, and publishing new schedules or must be

plainly indicated upon the schedules in force at the time and kept open to public inspection. The commission, for good cause shown, may by order allow changes in rates without requiring the notice and the publication time periods specified in this section. When any change is made in any rate, fare, charge, classification, rule, or regulation, attention must be directed to the change by some character on the schedule. The character and its placement must be designated by the commission. The commission may, by order, for good cause shown, allow changes in any rate, fare, charge, classification, rule, or regulation without requiring any character to indicate each and every change to be made.

During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the operation or enforcement of this section or any portion of this section or under any administrative rule, and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population. [2008 c 181 s 406; 2007 c 234 s 26; 1993 c 300 s 2; 1984 c 143 s 5; 1981 c 116 s 1; 1961 c 14 s 81.28.050. Prior: 1957 c 205 s 3; 1911 c 117 s 15; RRS s 10351.]

Part headings not law—2008 c 181: See note following RCW 43.06.220.

RCW 81.28.060 Joint rates, contracts, etc. The names of the several carriers which are parties to any joint tariff shall be specified therein, and each of the parties thereto, other than the one filing the same, shall file with the commission such evidence of concurrence therein or acceptance thereof as may be required or approved by the commission; and where such evidence of concurrence or acceptance is filed, it shall not be necessary for the carriers filing the same also to file copies of the tariffs in which they are named as parties.

Every common carrier shall file with the commission copies of every contract, agreement or arrangement with any other common carrier or common carriers relating in any way to the transportation of persons or property. [1961 c 14 s 81.28.060. Prior: 1911 c 117 s 16; RRS s 10352.]

RCW 81.28.080 Published rates to be charged—Exceptions—Definitions. (1) A common carrier subject to regulation by the commission as to rates and service shall not charge, demand, collect, or receive a greater or less or different compensation for transportation of persons or property, or for any service in connection therewith, than the rates, fares, and charges applicable to such transportation as specified in its schedules filed and in effect at the time and shall not refund or remit in any manner or by any device any portion of the rates, fares, or charges so specified excepting upon order of the commission as hereinafter provided, or extend to any shipper or person any privileges or facilities in the transportation of passengers or property except such as are regularly and uniformly extended to all persons and corporations under like circumstances. Any common carrier subject to regulation by the commission as to rates and service shall not, directly or indirectly, issue or give any free ticket, free pass, or free or reduced

transportation for passengers between points within this state, except to the carrier's employees and their families, surgeons and physicians and their families, the carrier's officers, agents, and attorneys-at-law; to ministers of religion, traveling secretaries of young men's christian associations, inmates of hospitals, charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute, and homeless persons; to inmates of the national homes or state homes for volunteer soldiers with disabilities and of soldiers' and sailors' homes, including those about to enter and those returning home after discharge; to necessary caretakers of livestock, poultry, milk, and fruit; to lineworkers of telegraph and telephone companies; to post office inspectors, customs inspectors, and immigration inspectors; to baggage agents and witnesses attending any legal investigation in which the common carrier is interested; to persons injured in accidents or wrecks and physicians and nurses attending such persons; to the national guard of Washington when on official duty; and students going to and returning from state institutions of learning. This section does not prohibit the interchange of passes for the officers, attorneys, agents and employees and their families, of commercial ferries or prohibit any common carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation.

(2) "Employee," as used in this section, includes furloughed, pensioned, and superannuated employees, persons who have become disabled or infirm in the service of any such common carrier, the remains of a person killed or dying in the employment of a carrier, those entering or leaving its service, and former employees traveling for the purpose of entering the service of any such common carrier.

(3) "Families," as used in this section, includes the families of those persons named in subsection (2) of this section, the families of persons killed and their surviving spouses prior to remarriage and minor children during minority, and the families of persons who died while in the service of any such common carrier.

(4) Nothing in this section prevents the issuance of mileage, commutation tickets, or excursion passenger tickets or prevents the issuance of free or reduced transportation by any street railroad company for mail carriers, or police officers or members of fire departments, city officers, and employees when engaged in the performance of their duties as city employees.

(5) Common carriers may carry, store, or handle, free or at reduced rates, property for the United States, state, county, or municipal governments, for charitable purposes, or to or from fairs and exhibitions for exhibition, and may carry, store, or handle, free or at reduced rates, the household goods and personal effects of its employees, those entering or leaving its service, and those killed or dying while in its service. [2007 c 234 s 27; 2007 c 218 s 74; 1973 1st ex.s. c 154 s 117; 1961 c 14 s 81.28.080. Prior: 1929 c 96 s 1; 1911 c 117 s 18; RRS s 10354. Formerly RCW 81.28.080 through 81.28.130, 81.28.150 through 81.28.170, and 80.36.130.]

Reviser's note: This section was amended by 2007 c 218 s 74 and by 2007 c 234 s 27, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—Finding—2007 c 218: See note following RCW 41.08.020.

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 81.28.180 Rate discrimination prohibited. A common carrier subject to regulation by the commission as to rates and service shall not, directly or indirectly, by any special rate, rebate, drawback, or other device or method, charge, demand, collect, or receive from any person or corporation a greater or lesser compensation for any service rendered or to be rendered in the transportation of persons or property, except as authorized in this title, than it charges, demands, collects, or receives from any person or corporation for doing a like and contemporaneous service in the transportation of a like kind of traffic under the same or substantially similar circumstances and conditions. [2007 c 234 s 28; 1984 c 143 s 6; 1961 c 14 s 81.28.180. Prior: 1911 c 117 s 20; RRS s 10356.]

RCW 81.28.190 Unreasonable preferences and prejudices prohibited. A common carrier subject to regulation by the commission as to rates and service shall not make or give any undue or unreasonable preference or advantage to any person, corporation, locality, or particular description of traffic in any respect whatsoever, or subject any particular person, corporation, locality, or particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever. [2007 c 234 s 29; 1984 c 143 s 7; 1961 c 14 s 81.28.190. Prior: 1911 c 117 s 21; RRS s 10357.]

RCW 81.28.200 Long and short haul. A common carrier, subject to regulation by the commission as to rates and service and this title, shall not charge or receive any greater compensation in the aggregate for the transportation of persons or a like kind of property for a shorter distance than for a longer distance over the same line in the same direction, the shorter distance being included within the longer distance, or to charge any greater compensation as a through rate than the aggregate of the intermediate rates subject to this title. The common carriers may not charge and receive as great a compensation for a shorter as for a longer distance or haul. Upon the application of a common carrier, the commission may by order authorize the common carrier to charge less for a longer distance than for a shorter distance for the transportation of persons or property in special cases after investigation by the commission, but the order must specify and prescribe the extent to which the common carrier making the application is relieved from the operation of this section. Only to the extent so specified and prescribed is any common carrier relieved from the operation and requirements of this section. [2007 c 234 s 30; 1984 c 143 s 8; 1961 c 14 s 81.28.200. Prior: 1911 c 117 s 22; RRS s 10358.]

RCW 81.28.210 Transportation at less than published rates—Rebating—False representation. (1) A common carrier subject to regulation by the commission as to rates and service, or any officer or agent thereof, or any person acting for or employed by the common

carrier, shall not assist, suffer, or permit any person or corporation to obtain transportation for any person or property between points within this state at less than the rates then established and in force in accordance with the schedules filed and published under this title, by false billing, false classification, false weight or weighing, or false report of weight, or by any other device or means. Any person, corporation, or any officer, agent, or employee of a corporation, who delivers property for transportation within the state to a common carrier, shall not seek to obtain or obtain such transportation for such property at less than the rates then established and in force, by false billing, false or incorrect classification, false weight or weighing, false representation of the contents or substance of a package, or false report or statement of weight, or by any device or means, whether with or without the consent or connivance of a common carrier or any of its officers, agents, or employees.

(2) A person, corporation, or any officer, agent, or employee of a corporation, shall not knowingly or wilfully, directly or indirectly, by false statement or representation as to the cost, value, nature, or extent of injury, or by the use of any false billing, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to be false, fictitious, or fraudulent, or to upon any false, fictitious, or fraudulent statement or entry, obtain or attempt to obtain any allowance, rebate, or payment for damage, or otherwise, in connection with or growing out of the transportation of persons or property, or agreement to transport such persons or property, whether with or without the consent or connivance of such common carrier or any of its officers, agents, or employees, when the compensation of such carrier for such transportation is less than the rates then established and in force.

(3) A person, corporation, or any officer, agent, or employee of a corporation, who delivers property for transportation within the state to a common carrier, shall not seek to obtain or obtain such transportation by any false representation or false statement of false paper or token as to the contents or substance thereof, when the transportation of such property is prohibited by law. [2007 c 234 s 31; 1961 c 14 s 81.28.210. Prior: 1911 c 117 s 23; RRS s 10359.]

RCW 81.28.220 Action for treble damages. The attorney general of the state of Washington shall, whenever he or she has reasonable grounds to believe that any person, firm, or corporation has knowingly accepted or received from any carriers of persons or property subject to the jurisdiction of the commission, either directly or indirectly, any unlawful rebate, discount, deduction, concession, refund, or remittance from the rates or charges filed and open to public inspection as provided for in the public service laws of this state, prosecute a civil action in the name of the people of the state of Washington in the superior court of Thurston county to collect three times the total sum of such rebates, discounts, deductions, concessions, refunds, or remittances so accepted or received within three years prior to the commencement of such action.

All penalties imposed under the provisions of this section shall be paid to the state treasurer and by him or her deposited in the public service revolving fund. [2007 c 234 s 32; 1961 c 14 s 81.28.220. Prior: 1937 c 169 s 5; RRS s 10447-1.]

RCW 81.28.230 Commission to fix just, reasonable, and compensatory rates. Whenever the commission finds, after a hearing had upon its own motion or upon complaint, as provided in this chapter, that the rates, fares, or charges demanded, exacted, charged, or collected by any common carrier subject to regulation by the commission as to rates and service for the transportation of persons or property within the state or in connection therewith, or that the regulations or practices of the common carrier affecting those rates are unjust, unreasonable, unjustly discriminatory, or unduly preferential, or in any way are in violation of the provisions of law, or that the rates, fares, or charges are insufficient to yield a reasonable compensation for the service rendered, the commission shall determine and fix by order the just, reasonable, or sufficient rates, fares, or charges, or the regulations or practices to be thereafter observed and enforced. [2007 c 234 s 33; 1984 c 143 s 9; 1961 c 14 s 81.28.230. Prior: 1911 c 117 s 53, part; RRS s 10389, part.]

RCW 81.28.240 Commission may order improved facilities and service. Whenever the commission shall find, after such hearing, that the rules, regulations, practices, equipment, appliances, facilities or service of any such common carrier in respect to the transportation of persons or property are unjust, unreasonable, unsafe, improper, inadequate or insufficient, the commission shall determine the just, reasonable, safe, adequate, sufficient and proper rules, regulations, practices, equipment, appliances, facilities or service to be observed, furnished, constructed or enforced and be used in the transportation of persons and property by such common carrier, and fix the same by its order or rule. [1961 c 14 s 81.28.240. Prior: 1911 c 117 s 53, part; RRS s 10389, part.]

RCW 81.28.250 Investigation and determination of interstate rates—Application for federal relief. The commission shall investigate all interstate, rates, fares, charges, classifications, or rules or practices in relation to the transportation of persons or property within this state, and if the commission determines that these rates, fares, charges, classification, or rules or practices are excessive or discriminatory, or are applied in violation of the act of congress entitled "An act to regulate commerce," approved February 4, 1887, as amended or supplemented, or in conflict with the rulings, orders, or regulations of the applicable federal regulatory agency, the commission shall apply, by petition, to the applicable federal regulatory agency for relief, and may present to the agency all facts concerning violations of the rulings, orders, or regulations of that agency, or violations of the act to regulate commerce as amended or supplemented. [2007 c 234 s 34; 1961 c 14 s 81.28.250. Prior: 1911 c 117 s 58; RRS s 10394.]

RCW 81.28.260 Bicycles as baggage on commercial ferries. Bicycles must be transported as baggage for passengers by commercial ferries and are subject to the same liabilities as other baggage. A passenger is not required to crate, cover, or otherwise protect any bicycle. A commercial ferry is not required to transport more than one

bicycle for one person. [2007 c 234 s 35; 1961 c 14 s 81.28.260.
Prior: 1899 c 15 s 1; RRS s 10495.]

RCW 81.28.270 Limitation of action for collection of transportation charges. All actions at law by railroads, common and contract carriers by motor truck and all other public carriers for recovery of their charges, or any part of them, for any common carrier service performed by said carriers, shall be begun within two years from the time the cause of action accrues, and not after. [1961 c 14 s 81.28.270. Prior: 1945 c 117 s 1; Rem. Supp. 1945 s 167-1.]

RCW 81.28.280 Reports of wrecks, etc. Every public service company shall give immediate notice to the commission of every accident resulting in death or injury to any person occurring on its lines or system, in such manner as the commission may prescribe.

Such notice shall not be admitted as evidence or used for any purpose against the company giving it in any action for damages growing out of any matter mentioned in the notice. The commission may require reports to be made by any common carrier of all wrecks, collisions, or derailments occurring on its line. [1961 c 14 s 81.28.280. Prior: 1953 c 104 s 3; prior: 1911 c 117 s 63, part; RRS s 10399, part.]

RCW 81.28.290 Investigation of accidents, wrecks. The commission shall investigate all accidents that may occur upon the lines of any common carrier resulting in loss of life, to any passenger or employee, and may investigate any and all accidents or wrecks occurring on the line of any common carrier. Notice of the investigation shall be given in all cases for a sufficient length of time to enable the company affected to participate in the hearing and may be given orally or in writing, in such manner as the commission may prescribe.

Such witnesses may be examined as the commission deems necessary and proper to thoroughly ascertain the cause of the accident or wreck and fix the responsibility therefor. The examination and investigation may be conducted by an inspector or deputy inspector, and he or she may administer oaths, issue subpoenas, and compel the attendance of witnesses, and when the examination is conducted by an inspector or deputy inspector, he or she shall make a full and complete report thereof to the commission. [2013 c 23 s 295; 1961 c 14 s 81.28.290. Prior: 1953 c 104 s 4; prior: 1911 c 117 s 63, part; RRS s 10399, part.]

RCW 81.28.900 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or

invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 s 187.]