

CHAPTER 83

[House Bill No. 457]

COMMON CARRIERS—BILLS OF LADING FOR HAZARDOUS MATERIALS

AN ACT Relating to common carriers; dealing with the handling of hazardous commodities; amending section 81.29.020, chapter 14, Laws of 1961 as amended by section 1, chapter 132, Laws of 1980 and RCW 81.29.020; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 81.29.020, chapter 14, Laws of 1961 as amended by section 1, chapter 132, Laws of 1980 and RCW 81.29.020 are each amended to read as follows:

Any common carrier receiving property for transportation wholly within the state of Washington from one point in the state of Washington to another point in the state of Washington, shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it, or by any common carrier to which such property may be delivered, or over whose line or lines such property may pass when transported on a through bill of lading, and no contract, receipt, rule, regulation, or other limitation of any character whatsoever, shall exempt such common carrier from the liability imposed; and any such common carrier so receiving property for transportation wholly within the state of Washington, or any common carrier delivering said property so received and transported, shall be liable to the lawful holder of said receipt or bill of lading, or to any party entitled to recover thereon, whether such receipt or bill of lading has been issued or not, for the full actual loss, damage, or injury to such property caused by it or by any such common carrier to which such property may be delivered, or over whose line or lines such property may pass, when transported on a through bill of lading, notwithstanding any limitation of liability or limitation of the amount of recovery, or representation or agreement as to value in any such receipt or bill of lading, or in any contract, rule, or regulation, or in any tariff filed with the commission; and any such limitation, without respect to the manner or form in which it is sought to be made, is hereby declared to be unlawful and void: PROVIDED, HOWEVER, That the provisions hereof respecting liability for full actual loss, damage, or injury, notwithstanding any limitation of liability or recovery or representation or agreement or release as to value, and declaring any such limitation to be unlawful and void, shall not apply: First, to baggage carried on passenger trains, boats, motor vehicles, or aircraft, or trains, boats, motor vehicles, or aircraft carrying passengers; second, to property, except ordinary livestock received for transportation concerning which the carrier shall have been or shall be expressly authorized or required by order of the commission, to establish and maintain rates dependent upon the value declared in writing by the shipper

or agreed upon in writing as the released value of the property, in which case such declaration or agreement shall have no other effect than to limit liability and recovery to an amount not exceeding the value so declared or released; and any tariff schedule which may be filed with the commission pursuant to such order shall contain specific reference thereto and may establish rates varying with the value so declared and agreed upon; and the commission is hereby empowered to make such order in cases where rates dependent upon and varying with declared or agreed values would, in its opinion, be just and reasonable under the circumstances and conditions surrounding the transportation. (~~If the receipt, manifest or bill of lading is for hazardous material, as defined in 49 CFR 172, transported by motor vehicle upon the public highways of this state, it shall be red in color or shall have a red border. Red bills of lading, receipts or manifests or red-bordered bills of lading, receipts or manifests shall only be used for the transportation of hazardous materials as defined in 49 CFR 172.~~) The term "ordinary livestock" shall include all cattle, swine, sheep, goats, horses, and mules, except such as are chiefly valuable for breeding, racing, show purposes, or other special uses: PROVIDED, FURTHER, That nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under the existing law: PROVIDED, FURTHER, That it shall be unlawful for any such receiving or delivering common carrier to provide by rule, contract, regulation, or otherwise a shorter period for the filing of claims than nine months, and for the institution of suits than two years, such period for institution of suits to be computed from the day when notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim or any part or parts thereof specified in the notice: AND PROVIDED, FURTHER, That for the purposes of this section and of RCW 81.29.030 the delivering carrier in the case of rail transportation shall be construed to be the carrier performing the linehaul service nearest to the point of destination, and not a carrier performing merely a switching service at the point of destination: AND PROVIDED FURTHER, That the liability imposed by this section shall also apply in the case of property re-consigned or diverted in accordance with the applicable tariffs filed with the commission.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 7, 1982.

Passed the Senate March 3, 1982.

Approved by the Governor March 27, 1982.

Filed in Office of Secretary of State March 27, 1982.