

adopted hereunder in the superior court of the county in which the defendant resides or maintains his principal place of business, notwithstanding the existence of any other remedy at law.

Passed the Senate March 9, 1963.

Passed the House March 12, 1963.

Approved the Governor March 21, 1963.

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## CHAPTER 59.

[ S. B. 343. ]

### PUBLIC SERVICE COMPANIES.

AN ACT relating to public service companies; amending section 80.04.010, chapter 14, Laws of 1961 and RCW 80.04.010; amending section 81.04.235, chapter 14, Laws of 1961 and RCW 81.04.235; amending section 81.12.010, chapter 14, Laws of 1961 and RCW 81.12.010; amending section 81.80-.270, chapter 14, Laws of 1961 and RCW 81.80.270; amending section 81.80.040, chapter 14, Laws of 1961 and RCW 81.80.040; amending section 81.80.318, chapter 14, Laws of 1961 and RCW 81.80.318; amending section 81.24.010, chapter 14, Laws of 1961 and RCW 81.24.010; amending section 9, chapter 295, Laws of 1961, and RCW 81.77.080; adding a new section to chapter 14, Laws of 1961 and to chapter 80.04 RCW; adding a new section to chapter 14, Laws of 1961 and to chapter 81.04 RCW; adding two new sections to chapter 14, Laws of 1961 and to chapter 81.80 RCW; repealing section 81.80.350, chapter 14, Laws of 1961 and RCW 81.80.350; repealing section 1, chapter 177, Laws of 1961 and RCW 81.40.096; repealing section 2, chapter 177, Laws of 1961 and RCW 81.40.097; and providing an effective date.

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

SECTION 1. Section 80.04.010, chapter 14, Laws of 1961 and RCW 80.04.010 are each amended to read as follows:

RCW 80.04.010  
amended.

As used in this title, unless specifically defined otherwise or unless the context indicates otherwise:

Public service  
companies.  
Definitions.

“Commission” means the utilities and transportation commission.

Public service  
companies.  
Definitions.

“Commissioner” means one of the members of such commission.

“Corporation” includes a corporation, company, association or joint stock association.

“Person” includes an individual, a firm or co-partnership.

“Gas plant” includes all real estate, fixtures and personal property, owned, leased, controlled, used or to be used for or in connection with the transmission, distribution, sale or furnishing of natural gas, or the manufacture, transmission, distribution, sale or furnishing of other type gas, for light, heat or power.

“Gas company” includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receiver appointed by any court whatsoever, and every city or town, owning, controlling, operating or managing any gas plant within this state.

“Electric plant” includes all real estate, fixtures and personal property operated, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat, or power for hire; and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power.

“Electrical company” includes any corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever (other than a railroad or street railroad company generating electricity solely for railroad or street railroad purposes or for the use of its tenants and not for sale to others), and every city or town owning, operating or managing any electric plant for hire within this state.

“Telephone company” includes every corporation,

company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, operating or managing any telephone line or part of telephone line used in the conduct of the business of affording telephonic communication for hire within this state.

“Telephone line” includes conduits, ducts, poles, wires, cables, cross-arms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated, owned or controlled by any telephone company to facilitate the business of affording telephonic communication.

“Telegraph company” includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating or managing any telegraph line or part of telegraph line used in the conduct of the business of affording for hire communication by telegraph within this state.

“Telegraph line” includes conduits, poles, wire, cables, cross-arms, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated or owned by any telegraph company to facilitate the business of affording communication by telegraph.

“Water system” includes all real estate, easements, fixtures, personal property, dams, dikes, head gates, weirs, canals, reservoirs, flumes or other structures or appliances operated, owned, used or to be used for or in connection with or to facilitate the supply, storage, distribution, sale, furnishing, diversion, carriage, apportionment or measurement of water for power, irrigation, reclamation, manufacturing, municipal, domestic or other beneficial uses for hire.

“Water company” includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, controlling, operating, or managing any water system for hire within this state: *Provided*, That it shall not include any water system serving less than sixty customers where the average annual gross revenue per customer does not exceed sixty dollars per year.

“Public service company” includes every gas company, electrical company, telephone company, telegraph company and water company.

The term “service” is used in this title in its broadest and most inclusive sense.

**New section.**

SEC. 2. There is added to chapter 14, Laws of 1961, and to chapter 80.04 RCW a new section to read as follows:

Public utilities.  
General penalty—When payable—  
—Action to recover—  
Disposition of proceeds.

In addition to all other penalties provided by law every public service company subject to the provisions of this title and every officer, agent or employee of any such public service company who violates or who procures, aids or abets in the violation of any provision of this title or any order, rule, regulation or decision of the commission shall incur a penalty of one hundred dollars for every such violation. Each and every such violation shall be a separate and distinct offense and in case of a continuing violation every day’s continuance shall be and be deemed to be a separate and distinct violation. Every act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the penalty herein provided for.

The penalty herein provided for shall become due and payable when the person incurring the same receives a notice in writing from the commission describing such violation with reasonable partic-

ularity and advising such person that the penalty is due. The commission may, upon written application therefor, received within fifteen days, remit or mitigate any penalty provided for in this section or discontinue any prosecution to recover the same upon such terms as it in its discretion shall deem proper and shall have authority to ascertain the facts upon all such applications in such manner and under such regulations as it may deem proper. If the amount of such penalty is not paid to the commission within fifteen days after receipt of notice imposing the same or application for remission or mitigation has not been made within fifteen days after violator has received notice of the disposition of such application the attorney general shall bring an action in the name of the state of Washington in the superior court of Thurston county or of some other county in which such violator may do business, to recover such penalty. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise herein provided. All penalties recovered under this title shall be paid into the state treasury and credited to the public service revolving fund.

SEC. 3. There is added to chapter 14, Laws of 1961, and to chapter 81.04 RCW a new section to read as follows:

In addition to all other penalties provided by law every public service company subject to the provisions of this title and every officer, agent or employee of any such public service company who violates or who procures, aids or abets in the violation of any provision of this title or any order, rule, regulation or decision of the commission shall incur a penalty of one hundred dollars for every such violation. Each and every such violation shall be a separate and distinct offense and in case of a continuing violation every day's continuance shall be and

New section.

Transportation  
companies.  
General pen-  
alty—When  
payable—  
Action to  
recover—  
Disposition  
of proceeds.

be deemed to be a separate and distinct violation. Every act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the penalty herein provided for.

The penalty herein provided for shall become due and payable when the person incurring the same receives a notice in writing from the commission describing such violation with reasonable particularity and advising such person that the penalty is due. The commission may, upon written application therefor, received within fifteen days, remit or mitigate any penalty provided for in this section or discontinue any prosecution to recover the same upon such terms as it in its discretion shall deem proper and shall have authority to ascertain the facts upon all such applications in such manner and under such regulations as it may deem proper. If the amount of such penalty is not paid to the commission within fifteen days after receipt of notice imposing the same or application for remission or mitigation has not been made within fifteen days after violator has received notice of the disposition of such application the attorney general shall bring an action in the name of the state of Washington in the superior court of Thurston county or of some other county in which such violator may do business, to recover such penalty. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise herein provided. All penalties recovered under this title shall be paid into the state treasury and credited to the public service revolving fund.

RCW 81.04.235  
amended.

SEC. 4. Section 81.04.235, chapter 14, Laws of 1961 and RCW 81.04.235 are each amended to read as follows:

Public service  
companies.

All complaints against public service companies for recovery of overcharges shall be filed with the

commission within two years from the time the cause of action accrues, and not after, except as hereinafter provided, and except that if claim for the overcharge has been presented in writing to the public service company within the two-year period of limitation, said period shall be extended to include six months from the time notice in writing is given by the public service company to the claimant of disallowance of the claim, or any part or parts thereof, specified in the notice.

Limitation  
of actions.

If on or before expiration of the two-year period of limitation for the recovery of overcharges, a public service company begins action under RCW 81.28.270 for recovery of charges in respect of the same transportation service, or, without beginning action, collects charges in respect of that service, said period of limitation shall be extended to include ninety days from the time such action is begun or such charges are collected by the carrier.

All complaints against public service companies for the recovery of damages not based on overcharges shall be filed with the commission within six months from the time the cause of action accrues except as hereinafter provided.

The six-month period of limitation for recovery of damages not based on overcharges shall be extended for a like period and under the same conditions as prescribed for recovery of overcharges. If the six-month period for recovery of damages not based on overcharges has expired at the time action is commenced under RCW 81.28.270 for recovery of charges with respect to the same transportation service, or, without beginning such action, charges are collected with respect to that service, complaints therefor shall be filed with the commission within ninety days from the commencement of such action or the collection of such charges by the carrier.

RCW 81.12.010 amended.

SEC. 5. Section 81.12.010, chapter 14, Laws of 1961 and RCW 81.12.010 are each amended to read as follows:

Public service company—  
Definition.

The term “public service company,” as used in this chapter, shall mean every company now or hereafter engaged in business in this state as a public utility and subject to regulation as to rates and service by the utilities and transportation commission under the provisions of this title or Title 22:

Proviso.

*Provided*, That it shall not include common carriers subject to regulation by the Interstate Commerce

Proviso.

Commission: *Provided further*, That it shall not include motor freight carriers subject to the provisions of chapter 81.80: *Provided further*, That

Proviso.

nothing contained in this chapter shall relieve public service companies from the necessity for compliance with the provisions of RCW 81.80.270.

RCW 81.80.270 amended.

SEC. 6. Section 81.80.270, chapter 14, Laws of 1961 and RCW 81.80.270 are each amended to read as follows:

Motor freight carriers.  
Transfer, assignment of permits—  
Acquisition of carrier holding permit.

No permit issued under the authority of this chapter shall be construed to be irrevocable. Nor shall such permit be subject to transfer or assignment except upon a proper showing that property rights might be affected thereby, and then in the discretion of the commission, and upon the payment of a fee of twenty-five dollars.

No person, partnership or corporation, singly or in combination with any other person, partnership or corporation, whether a carrier holding a permit or otherwise, or any combination of such, shall acquire control or enter into any agreement or arrangement to acquire control of a common or contract carrier holding a permit through ownership of its stock or through purchase, lease or contract to manage the business, or otherwise except after and with the approval and authorization of the commission. Any such transaction either directly or indirectly



entered into without approval of the commission shall be void and of no effect.

Every carrier who shall cease operation and abandon his rights under the permits issued him shall notify the commission within thirty days of such cessation or abandonment, and return to the commission the identification plates issued to him.

SEC. 7. Section 81.80.040, chapter 14, Laws of 1961, and RCW 81.80.040 are each amended to read as follows: RCW 81.80.040 amended.

The provisions of this chapter, except where specifically otherwise provided, and except the provisions providing for licenses, shall not apply to: Exempt vehicles.

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

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

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

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

(5) Motor vehicles specially constructed for

towing disabled vehicles or wrecking and not otherwise used in transporting goods for compensation;

(6) Motor vehicles owned and operated by farmers in the transportation of their own farm, orchard or dairy products from point of production to market, or in the infrequent or seasonal transportation by one farmer for another in his immediate neighborhood of products of the farm, orchard or dairy, or of supplies or commodities to be used on the farm, orchard or dairy;

(7) Motor vehicles when transporting exclusively water in connection with construction projects only.

RCW 81.80.318 amended.

SEC. 8. Section 81.80.318, chapter 14, Laws of 1961, and RCW 81.80.318 are each amended to read as follows:

Motor freight carriers. Single trip transit permit.

Any motor carrier engaged in this state in the casual or occasional carriage of property in interstate or foreign commerce, who would otherwise be subject to all of the requirements of this chapter, shall be authorized to engage in such casual or occasional carriage, upon securing from the commission a single trip transit permit, valid for a period not exceeding ten days, which shall authorize a one way trip in transporting property for compensation between points in the state of Washington and points in other states, territories, or foreign countries.

No identification plates and no regulatory fees other than as provided in this section shall be required for such permit. The permit must be carried in the vehicle.

The permit shall be issued upon application to the commission or any of its duly authorized agents upon payment of a fee of ten dollars and the furnishing of proof of possession of public liability and property damage insurance in limits of at least twenty-five thousand dollars, for injury or death of any one person, and, subject to such limit as to any

one person, for one hundred thousand dollars for injury or death of all persons caused by any one accident and for ten thousand dollars for all damages to property caused by one accident. Such proof may consist of an insurance policy or a certificate of insurance.

The commission shall not be required to collect the excise tax prescribed by RCW 82.44.070 on any vehicle subject only to the payment of this fee.

SEC. 9. There is added to chapter 14, Laws of 1961, and to chapter 81.80 RCW, a new section to read as follows:

New section.

It shall be unlawful for any carrier to perform a transportation service for compensation upon the public highways of this state without first having secured appropriate authority from the Interstate Commerce Commission, if such authority is required, and without first having registered such authority, if any, with the commission.

Unlawful transportation services—Registration, how.

It shall also be unlawful for a carrier to perform a transportation service for compensation on the public highways of this state as an interstate carrier of commodities included in the exemptions provided in section 203 (b) of the Interstate Commerce Act without having first registered as such a carrier with the commission.

Such registration shall be granted upon application, without hearing, upon payment of the appropriate filing fee prescribed by this chapter for other applications for operating authority.

SEC. 10. There is added to chapter 14, Laws of 1961, and to chapter 81.80 RCW, a new section to read as follows:

New section.

In addition to such authority concerning interstate commerce as is granted to it by other provisions of this chapter, the commission may regulate motor freight carriers in interstate commerce on Washington highways under authority of and in accordance

Commission powers over interstate commerce.

with the provisions of any act of Congress vesting in or delegating to the commission such authority as an agency of the United States government or pursuant to agreement with the Interstate Commerce Commission.

RCW 81.24.010 amended.

SEC. 11. Section 81.24.010, chapter 14, Laws of 1961 and RCW 81.24.010 are each amended to read as follows:

Public transportation companies. To file reports of gross revenue and pay fees—General.

Every company subject to regulation by the commission, except auto transportation companies, steamboat companies, wharfingers or warehousemen, motor freight carriers, and storage warehousemen shall, on or before the first day of April of each year, file with the commission a statement on oath showing its gross operating revenue from intrastate operations for the preceding calendar year, or portion thereof, and pay to the commission a fee equal to one-tenth of one percent of the first fifty thousand dollars of gross operating revenue, plus two-tenths of one percent of any gross operating revenue in excess of fifty thousand dollars, except railroad companies which shall each pay to the commission a fee equal to four-tenths of one percent of its intrastate gross operating revenue: *Provided further*, That the fee shall in no case be less than one dollar.

Proviso.

The percentage rates of gross operating revenue to be paid in any one year may be decreased by the commission for any class of companies subject to the payment of such fees, by general order entered before March 1st of such year, and for such purpose such companies shall be classified as follows: Railroad, express, sleeping car, and toll bridge companies shall constitute class two. Every other company subject to regulation by the commission, for which regulatory fees are not otherwise fixed by law shall pay fees as herein provided and shall constitute

additional classes according to kinds of businesses engaged in.

SEC. 12. Section 9, chapter 295, Laws of 1961, and RCW 81.77.080 are each amended to read as follows:

RCW 81.77.080 amended.

Every garbage and refuse collection company shall, on or before the 1st day of April of each year, file with the commission a statement on oath showing its gross operating revenue from intrastate operations for the preceding calendar year, or portion thereof, and pay to the commission a fee equal to four-tenths of one percent of the amount of gross operating revenue: *Provided*, That the fee shall in no case be less than one dollar.

Garbage collection companies. To file reports of gross revenue and pay fees—Disposition of fees.

Proviso.

It is the intent of the legislature that the fees collected under the provisions of this chapter shall reasonably approximate the cost of supervising and regulating motor carriers subject thereto, and to that end the utilities and transportation commission is authorized to decrease the schedule of fees provided in this section by general order entered before March 1st of any year in which it determines that the moneys then in the garbage and refuse collection companies account of the public service revolving fund and the fees currently to be paid will exceed the reasonable cost of supervising and regulating such carriers.

All fees collected under this section or under any other provision of this chapter shall be paid to the commission and shall be by it transmitted to the state treasurer within thirty days to be deposited to the credit of the public service revolving fund.

SEC. 13. Section 81.80.350, chapter 14, Laws of 1961 and RCW 81.80.350, section 1, chapter 177, Laws of 1961 and RCW 81.40.096, and section 2, chapter 177, Laws of 1961 and RCW 81.40.097 are each repealed.

Repeal.

Effective date.

SEC. 14. Section 12 of this act shall become effective January 1, 1964.

Passed the Senate February 21, 1963.

Passed the House March 12, 1963.

Approved by the Governor March 21, 1963.

CHAPTER 60.

[ S. B. 351. ]

DOMESTIC INSURERS—ARTICLES OF INCORPORATION.

AN ACT relating to insurance; and amending section .06.20, chapter 79, Laws of 1947 as amended by section 7, chapter 190, Laws of 1949 and RCW 48.06.200.

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

RCW 48.06.200 amended.

SECTION 1. Section .06.20, chapter 79, Laws of 1947 as amended by section 7, chapter 190, Laws of 1949 and RCW 48.06.200 are each amended to read as follows:

Domestic insurers. Incorporation —Articles of—Contents.

(1) This section applies to insurers incorporated in this state, but no insurer heretofor lawfully incorporated in this state is required to reincorporate or change its articles of incorporation by reason of any provisions of this section.

(2) The incorporators shall be individuals who are United States citizens, of whom two-thirds shall be residents of this state. The number of incorporators shall be not less than five if a stock insurer, nor less than ten if a mutual insurer.

(3) The incorporators shall execute articles of incorporation in quadruplicate and acknowledge their signatures thereunto before an officer authorized to take acknowledgments of deeds.

(4) After approval of the articles by the commissioner, one copy shall be filed in the office of the secretary of state, another in the office of the commissioner, another in the office of the county auditor