

NEW SECTION. Sec. 6. Sections 1 through 4 of this 1980 act shall expire December 31, 1986.

Passed the Senate March 3, 1980.

Passed the House February 28, 1980.

Approved by the Governor March 12, 1980.

Filed in Office of Secretary of State March 12, 1980.

CHAPTER 132

[House Bill No. 1870]

HAZARDOUS MATERIALS TRANSPORTATION, BILLS OF LADING COLOR—
COMMON CARRIER VIOLATIONS, PENALTIES, ENFORCEMENT

AN ACT Relating to common carriers; amending section 81.29.020, chapter 14, Laws of 1961 and RCW 81.29.020; amending section 81.80.230, chapter 14, Laws of 1961 and RCW 81.80.230; amending section 81.80.330, chapter 14, Laws of 1961 and RCW 81.80.330; and providing an effective date.

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

Section 1. Section 81.29.020, chapter 14, Laws of 1961 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 reconsigned or diverted in accordance with the applicable tariffs filed with the commission.

Sec. 2. Section 81.80.230, chapter 14, Laws of 1961 and RCW 81.80-.230 are each amended to read as follows:

Any person, whether carrier subject to the provisions of this chapter, shipper, or consignee, or any officer, employee, agent, or representative thereof, who shall (~~knowingly~~) offer, grant, or give, or solicit, accept, or receive any rebate, concession, or discrimination in violation of any provision of this chapter, or who by means of any false statement or representation, or by the use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device shall (~~knowingly and wilfully~~) assist, suffer or permit any person or persons, natural or artificial, to obtain transportation of property subject to this chapter for less than the applicable rate, fare, or charge, or who shall (~~knowingly and wilfully by any such means or otherwise~~) fraudulently seek to evade or defeat regulation as in this chapter provided for motor carriers shall be (~~deemed guilty of a gross misdemeanor~~) subject to a civil penalty of not more than one hundred dollars for each 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 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 this section and subject to the penalty provided for in this section.

The penalty provided for in this section shall become due and payable when the person incurring the penalty receives a notice in writing from the commission describing the violation with reasonable particularity and advising the 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 penalty upon such terms as the commission in its discretion deems proper. The commission has authority to ascertain the facts upon all such applications in such manner and under such regulations as it may deem proper. If the penalty is not paid to the commission within fifteen days after receipt of notice imposing the penalty or application for remission or mitigation has not been made within fifteen days after the violator has received notice of the disposition of the 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 the violator may do business, to recover the penalty. In all such actions, the procedure and rules of evidence shall be the same as in an ordinary civil action except as otherwise provided in this section. All penalties recovered under this section shall be paid into the state treasury and credited to the public service revolving fund.

Sec. 3. Section 81.80.330, chapter 14, Laws of 1961 and RCW 81.80-.330 are each amended to read as follows:

The commission is hereby empowered to administer and enforce all provisions of this chapter and to inspect the vehicles, books and documents of

all "motor carriers" and the books, documents and records of those using the service of the carriers for the purpose of discovering all discriminations and rebates and other information pertaining to the enforcement of this chapter and shall prosecute violations thereof. The commission shall employ such auditors, inspectors, clerks and assistants as it may deem necessary for the enforcement of this chapter, and it shall be the duty of the Washington state patrol to assist in the enforcement of this chapter, and the duty of the attorney general to assign at least one assistant to the exclusive duty of assisting the commission in the enforcement of this chapter, and the prosecution of persons charged with the violation thereof. It shall be the duty of the Washington state patrol and the sheriffs of the counties to make arrests and the county attorneys to prosecute violations of this chapter.

NEW SECTION. Sec. 4. This 1980 act shall take effect on July 1, 1980.

Passed the House March 3, 1980.

Passed the Senate February 18, 1980.

Approved by the Governor March 13, 1980.

Filed in Office of Secretary of State March 13, 1980.

CHAPTER 133

[Substitute House Bill No. 714]

PUGET SOUND COMMERCIAL CRAB FISHERY—LICENSE LIMITATION

AN ACT Relating to food fish and shellfish; amending section 75.28.270, chapter 12, Laws of 1955 as last amended by section 17, chapter 73, Laws of 1965 ex. sess. and RCW 75.28-.270; adding new sections to chapter 75.28 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. Section 1. The legislature finds that a significant commercial crab fishery is developing within Puget Sound. The legislature further finds that the crab fishery in Puget Sound represents a separate and distinct fishery from that of the coastal waters and is limited in quantity and is in need of conservation. The potential for depletion of the crab stocks in these waters is increasing, particularly as crab fishing becomes an attractive alternative to fishermen facing increasing restrictions on commercial salmon fishing.

The legislature finds that the number of commercial fishermen engaged in crab fishing has steadily increased. This factor, combined with advances in fishing and marketing techniques, has resulted in strong pressures on the supply of crab, unnecessary waste of an important natural resource, and economic loss to the citizens of the state.

The legislature finds that increased regulation of commercial crab fishing is necessary to preserve and efficiently manage the commercial crab fishery in the waters of Puget Sound.