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**SENATE BILL 6667**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Senator King

1       AN ACT Relating to permitting a private auto ferry to operate  
2 between the Anacortes area and British Columbia; amending RCW  
3 47.64.090 and 88.16.070; reenacting and amending RCW 47.60.120; and  
4 creating a new section.

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

6       NEW SECTION.   **Sec. 1.** The legislature finds that ferry service  
7 between Anacortes and British Columbia, Canada contributes to the  
8 state's economy. The legislature intends that this service continue  
9 even if the state can no longer operate it. Therefore, the  
10 legislature intends to permit a private auto ferry to operate between  
11 the Anacortes area and British Columbia in the case that the  
12 legislature decides to end state service to Sidney, British Columbia.

13       **Sec. 2.** RCW 47.60.120 and 2003 c 373 s 2 and 2003 c 83 s 204 are  
14 each reenacted and amended to read as follows:

15       (1) If the department acquires or constructs, maintains, and  
16 operates any ferry crossings upon or toll bridges over Puget Sound or  
17 any of its tributary or connecting waters, there shall not be  
18 constructed, operated, or maintained any other ferry crossing upon or  
19 bridge over any such waters within ten miles of any such crossing or  
20 bridge operated or maintained by the department excepting such

1 bridges or ferry crossings in existence, and being operated and  
2 maintained under a lawfully issued franchise at the time of the  
3 location of the ferry crossing or construction of the toll bridge by  
4 the department.

5 (2) The ten-mile distance in subsection (1) of this section means  
6 ten statute miles measured by airline distance. The ten-mile  
7 restriction shall be applied by comparing the two end points  
8 (termini) of a state ferry crossing to those of a private ferry  
9 crossing.

10 (3) The Washington utilities and transportation commission may,  
11 upon written petition of a commercial ferry operator certificated or  
12 applying for certification under chapter 81.84 RCW, and upon notice  
13 and hearing, grant a waiver from the ten-mile restriction. The waiver  
14 must not be detrimental to the public interest. In making a decision  
15 to waive the ten-mile restriction, the commission shall consider, but  
16 is not limited to, the impact of the waiver on transportation  
17 congestion mitigation, air quality improvement, and the overall  
18 impact on the Washington state ferry system. The commission shall act  
19 upon a request for a waiver within ninety days after the conclusion  
20 of the hearing. A waiver is effective for a period of five years from  
21 the date of issuance. At the end of five years the waiver becomes  
22 permanent unless appealed within thirty days by the commission on its  
23 own motion, the department, or an interested party.

24 (4) The department shall not maintain and operate any ferry  
25 crossing or toll bridge over Puget Sound or any of its tributary or  
26 connecting waters that would infringe upon any franchise lawfully  
27 issued by the state and in existence and being exercised at the time  
28 of the location of the ferry crossing or toll bridge by the  
29 department, without first acquiring the rights granted to such  
30 franchise holder under the franchise.

31 (5) This section does not apply to ~~((the))~~;

32 (a) The operation of passenger-only ferry service by public  
33 transportation benefit areas meeting the requirements of RCW  
34 36.57A.200 ~~((or to the))~~;

35 (b) The operation of passenger-only ferry service by ferry  
36 districts; or

37 (c) The operation of direct international ferry services between  
38 the state of Washington and British Columbia, Canada.

1       **Sec. 3.** RCW 47.64.090 and 2019 c 230 s 19 are each amended to  
2 read as follows:

3       (1) Except as provided in RCW 47.60.656 and subsections (2) and  
4 (4) of this section, or as provided in RCW 36.54.130 and subsection  
5 (3) of this section, if any party assumes the operation and  
6 maintenance of any ferry or ferry system by rent, lease, or charter  
7 from the department of transportation, such party shall assume and be  
8 bound by all the provisions herein and any agreement or contract for  
9 such operation of any ferry or ferry system entered into by the  
10 department shall provide that the wages to be paid, hours of  
11 employment, working conditions, and seniority rights of employees  
12 will be established by the commission in accordance with the terms  
13 and provisions of this chapter and it shall further provide that all  
14 labor disputes shall be adjudicated in accordance with this chapter  
15 (~~(47.64 RCW)~~).

16       (2) If a public transportation benefit area meeting the  
17 requirements of RCW 36.57A.200 has voter approval to operate  
18 passenger-only ferry service, it may enter into an agreement with  
19 Washington State Ferries to rent, lease, or purchase passenger-only  
20 vessels, related equipment, or terminal space for purposes of loading  
21 and unloading the passenger-only ferry. Charges for the vessels,  
22 equipment, and space must be fair market value taking into account  
23 the public benefit derived from the ferry service. A benefit area or  
24 subcontractor of that benefit area that qualifies under this  
25 subsection is not subject to the restrictions of subsection (1) of  
26 this section, but is subject to:

27       (a) The terms of those collective bargaining agreements that it  
28 or its subcontractors negotiate with the exclusive bargaining  
29 representatives of its or its subcontractors' employees under chapter  
30 41.56 RCW or the National Labor Relations Act, as applicable;

31       (b) Unless otherwise prohibited by federal or state law, a  
32 requirement that the benefit area and any contract with its  
33 subcontractors, give preferential hiring to former employees of the  
34 department of transportation who separated from employment with the  
35 department because of termination of the ferry service by the state  
36 of Washington; and

37       (c) Unless otherwise prohibited by federal or state law, a  
38 requirement that the benefit area and any contract with its  
39 subcontractors, on any questions concerning representation of  
40 employees for collective bargaining purposes, may be determined by

1 conducting a cross-check comparing an employee organization's  
2 membership records or bargaining authorization cards against the  
3 employment records of the employer. A determination through a cross-  
4 check process may be made upon a showing of interest submitted in  
5 support of the exclusive bargaining representative by more than fifty  
6 percent of the employees.

7 (3) If a ferry district is formed under RCW 36.54.110 to operate  
8 passenger-only ferry service, it may enter into an agreement with  
9 Washington State Ferries to rent, lease, or purchase vessels, related  
10 equipment, or terminal space for purposes of loading and unloading  
11 the ferry. Charges for the vessels, equipment, and space must be fair  
12 market value taking into account the public benefit derived from the  
13 ferry service. A ferry district or subcontractor of that district  
14 that qualifies under this subsection is not subject to the  
15 restrictions of subsection (1) of this section, but is subject to:

16 (a) The terms of those collective bargaining agreements that it  
17 or its subcontractors negotiate with the exclusive bargaining  
18 representatives of its or its subcontractors' employees under chapter  
19 41.56 RCW or the national labor relations act, as applicable;

20 (b) Unless otherwise prohibited by federal or state law, a  
21 requirement that the ferry district and any contract with its  
22 subcontractors, give preferential hiring to former employees of the  
23 department of transportation who separated from employment with the  
24 department because of termination of the ferry service by the state  
25 of Washington; and

26 (c) Unless otherwise prohibited by federal or state law, a  
27 requirement that the ferry district and any contract with its  
28 subcontractors, on any questions concerning representation of  
29 employees for collective bargaining purposes, may be determined by  
30 conducting a cross-check comparing an employee organization's  
31 membership records or bargaining authorization cards against the  
32 employment records of the employer.

33 (4) The department of transportation shall make its terminal,  
34 dock, and pier space available to private operators of passenger-only  
35 ferries or to private operators of direct international ferry  
36 services between the state of Washington and British Columbia, Canada  
37 if the space can be made available without limiting the operation of  
38 car ferries operated by the department. These private operators are  
39 not bound by the provisions of subsection (1) of this section.  
40 Charges for the equipment and space must be fair market value taking

1 into account the public benefit derived from the passenger-only ferry  
2 service or the direct international ferry services.

3 **Sec. 4.** RCW 88.16.070 and 2018 c 107 s 4 are each amended to  
4 read as follows:

5 Every vessel not exempt under this section that operates in the  
6 waters of the Puget Sound pilotage district or Grays Harbor pilotage  
7 district is subject to compulsory pilotage under this chapter.

8 (1) A United States vessel on a voyage in which it is operating  
9 exclusively on its coastwise endorsement, its fishery endorsement  
10 (including catching and processing its own catch outside United  
11 States waters and economic zone for delivery in the United States),  
12 and/or its recreational (or pleasure) endorsement, and all United  
13 States and Canadian vessels engaged exclusively in the coasting trade  
14 on the west coast of the continental United States (including Alaska)  
15 and/or British Columbia shall be exempt from the provisions of this  
16 chapter unless a pilot licensed under this chapter be actually  
17 employed, in which case the pilotage rates provided for in this  
18 chapter or established under RCW 81.116.010 through 81.116.060 shall  
19 apply.

20 (2) The board may, upon the written petition of any interested  
21 party, and upon notice and opportunity for hearing, grant an  
22 exemption from the provisions of this chapter to any vessel that the  
23 board finds is (a) a small passenger vessel or commercial ferry that  
24 is not more than (~~one~~) five thousand three hundred gross tons  
25 (international), does not exceed (~~two~~) three hundred feet in  
26 overall length, is manned by United States-licensed deck and engine  
27 officers appropriate to the size of the vessel with merchant mariner  
28 credentials issued by the United States coast guard or Canadian deck  
29 and engine officers with Canadian-issued certificates of competency  
30 appropriate to the size of the vessel, and is operated exclusively in  
31 the waters of the Puget Sound pilotage district and lower British  
32 Columbia, or (b) a yacht that is not more than one thousand three  
33 hundred gross tons (international) and does not exceed two hundred  
34 feet in overall length. Such an exemption shall not be detrimental to  
35 the public interest in regard to safe operation preventing loss of  
36 human lives, loss of property, and protecting the marine environment  
37 of the state of Washington. Such petition shall set out the general  
38 description of the vessel, the contemplated use of same, the proposed  
39 area of operation, and the name and address of the vessel's owner.

1 The board shall annually, or at any other time when in the public  
2 interest, review any exemptions granted to this specified class of  
3 small vessels to insure that each exempted vessel remains in  
4 compliance with the original exemption. The board shall have the  
5 authority to revoke such exemption where there is not continued  
6 compliance with the requirements for exemption. The board shall  
7 maintain a file which shall include all petitions for exemption, a  
8 roster of vessels granted exemption, and the board's written  
9 decisions which shall set forth the findings for grants of exemption.  
10 Each applicant for exemption or annual renewal shall pay a fee,  
11 payable to the pilotage account. Fees for initial applications and  
12 for renewals shall be established by rule, and shall not exceed one  
13 thousand five hundred dollars. The board shall report annually to the  
14 legislature on such exemptions.

15 (3) Every vessel not exempt under subsection (1) or (2) of this  
16 section shall, while navigating the Puget Sound and Grays Harbor  
17 pilotage districts, employ a pilot licensed under the provisions of  
18 this chapter and shall be liable for and pay pilotage rates in  
19 accordance with the pilotage rates herein established or which may  
20 hereafter be established under the provisions of this chapter or  
21 under RCW 81.116.010 through 81.116.060: PROVIDED, That any vessel  
22 inbound to or outbound from Canadian ports is exempt from the  
23 provisions of this section, if said vessel actually employs a pilot  
24 licensed by the Pacific pilotage authority (the pilot licensing  
25 authority for the western district of Canada), and if it is  
26 communicating with the vessel traffic system and has appropriate  
27 navigational charts, and if said vessel uses only those waters east  
28 of the international boundary line which are west of a line which  
29 begins at the southwestern edge of Point Roberts then to Alden Point  
30 (Patos Island), then to Skipjack Island light, then to Turn Point  
31 (Stuart Island), then to Kellet Bluff (Henry Island), then to Lime  
32 Kiln (San Juan Island) then to the intersection of one hundred  
33 twenty-three degrees seven minutes west longitude and forty-eight  
34 degrees twenty-five minutes north latitude then to the international  
35 boundary. The board shall correspond with the Pacific pilotage  
36 authority from time to time to ensure the provisions of this section  
37 are enforced. If any exempted vessel does not comply with these  
38 provisions it shall be deemed to be in violation of this section and  
39 subject to the penalties provided in RCW 88.16.150 as now or  
40 hereafter amended and liable to pilotage fees as determined by the

1 board. The board shall investigate any accident on the waters covered  
2 by this chapter involving a Canadian pilot and shall include the  
3 results in its annual report.

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