

CHAPTER 51**REGULATION OF FERRIES IN CASCO BAY****§5101. Franchise of Casco Bay Island Transit District and others**

No person, except for the Casco Bay Island Transit District, created by Private and Special Law 1981, chapter 22, may, directly, by lease or other arrangement transport passengers or property by vessel, for compensation, between the mainland of Cumberland County and Peaks Island, Great Diamond Island, Little Diamond Island, Long Island, Chebeague Island or Cliff Island, or between the islands mentioned in this section, without obtaining a certificate of public convenience and necessity from the commission authorizing the transportation. The district and any person who must obtain a certificate are ferries subject to the jurisdiction of the commission with respect to the service that requires authority. The commission shall specify in the certificate the business and operation of the ferry and shall attach to it at the time of issuance and from time to time after issuance reasonable terms, conditions and limitations as it determines necessary to maintain adequate transportation to these islands. The Casco Bay Island Transit District may assign or subcontract to another person any service for which it has a franchise. Regularly scheduled freight and passenger services are subject to the requirements of sections 5101-A to 5101-C. Unscheduled freight, tour, charter and taxi services are subject to the requirements of sections 5101-D and 5101-E. [PL 1991, c. 774, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1987, c. 475, §2 (AMD). PL 1991, c. 774, §1 (AMD).

§5101-A. Allowance of cross-subsidization; legislative intent

1. Legislative intent. The Legislature finds that the provision of affordable year-round passenger, freight and vehicle transportation to the islands served by the Casco Bay Island Transit District is critical to the continued existence of these island communities. It is the intent of the Legislature that the regulation of rates for the district allow for reasonable cross-subsidization of rates in order to preserve the affordability of passenger, freight and vehicle transportation for the year-round residents of the affected islands, the financial viability of the district and the viability of the island communities served by the district.

[PL 1991, c. 774, §2 (NEW).]

2. Cross-subsidization. In making decisions that require an evaluation of the rates charged by the Casco Bay Island Transit District, the commission shall allow reasonable cross-subsidization of rates in order to preserve the affordability of passenger and freight services for the year-round residents of the affected islands, the financial viability of the district and the viability of the island communities served by the district. In allowing such cross-subsidization, the commission shall attempt to minimize the potential need for governmental operating subsidies for the operations maintained by the district.

[PL 1991, c. 774, §2 (NEW).]

3. Competing scheduled service. The commission may not grant an application for a certificate of public convenience and necessity in which the applicant seeks to offer a scheduled passenger, freight or vehicle transportation service currently offered by the Casco Bay Island Transit District if the principal difference in service proposed by the applicant is a proposed or potential reduced rate for that service, unless the applicant proves that the granting of that certificate will not have a significant adverse affect on the revenues of the district. This subsection does not apply to tour or charter service applications.

[PL 1991, c. 774, §2 (NEW).]

SECTION HISTORY

PL 1991, c. 774, §2 (NEW).

§5101-B. Inadequacies or deficiencies in service of Casco Bay Island Transit District

1. Seasonal scheduled service. A certificate granted by the commission for seasonal scheduled passenger, freight or vehicle transportation services must be limited to the provision of scheduled services found by the commission to cure any inadequacies or deficiencies in existing scheduled services of the Casco Bay Island Transit District.

[PL 1991, c. 774, §2 (NEW).]

2. Permanent certificates. An applicant for a permanent certificate of public convenience and necessity for the provision of scheduled passenger, freight or vehicle transportation service who seeks such a certificate on the grounds that the service provided by the Casco Bay Island Transit District is inadequate or deficient has the burden of establishing the following.

A. The service of the district is inadequate or deficient in the areas in which the applicant proposes to provide service. [PL 1991, c. 774, §2 (NEW).]

B. By written application to the board of directors of the district, the applicant has identified the inadequacies and deficiencies in the service of the district that the applicant wishes to provide. [PL 1991, c. 774, §2 (NEW).]

C. The district has failed substantially to cure these inadequacies or deficiencies in its service within 60 days after receipt of the written application of the applicant that identifies the inadequacies or deficiencies. [PL 1991, c. 774, §2 (NEW).]

[PL 1991, c. 774, §2 (NEW).]

3. Insufficiency of lower rates to establish deficiency. A scheduled service provided by the Casco Bay Island Transit District may not be found to be inadequate or deficient solely on the basis that a seasonal service is proposed by an applicant to be provided at a lower rate than the scheduled service offered by the district. This subsection does not apply to any application proposing to provide all scheduled passenger, freight and vehicle transportation services currently offered by the district.

[PL 1991, c. 774, §2 (NEW).]

SECTION HISTORY

PL 1991, c. 774, §2 (NEW).

§5101-C. Preservation of financial viability of Casco Bay Island Transit District

In reviewing an application for a certificate of public convenience and necessity for the provision of scheduled passenger, freight or vehicle transportation service under section 5101, the commission shall consider the cumulative impact of each application in conjunction with any other certificates previously granted for ferry services in Casco Bay. The commission may not grant a certificate for scheduled passenger, freight or vehicle transportation service that is likely to have a significant adverse impact on the rates that must be charged by the Casco Bay Island Transit District, the capability of the district to sell or repay bonds, the short-term or long-term financial viability of the district, or the ability of the district to retain a reasonable level of cross-subsidization, taking into consideration the full range of services provided by the district and the requirement that the district provide and maintain reasonable and adequate service, rates and schedules to the islands of Casco Bay as required by section 5103. [PL 1991, c. 774, §2 (NEW).]

SECTION HISTORY

PL 1991, c. 774, §2 (NEW).

§5101-D. Unscheduled freight services

The commission shall issue a certificate of public convenience and necessity to an applicant filing a tariff meeting the following listed minimum conditions. [PL 1991, c. 774, §2 (NEW).]

1. Mainland service. For service between mainland Cumberland County and Long Island, Cliff Island, Little Diamond Island, Great Diamond Island and Chebeague Island and service between these islands:

A. The service is for unscheduled transportation of a roll-on and roll-off vehicle, as defined by the commission by rule, with a cargo weight in excess of 5 gross tons, excluding 4-wheel trucks and cars of 10 or less gross tons unless carried in conjunction with a roll-on and roll-off vehicle with a cargo weight in excess of 5 gross tons; [PL 1991, c. 774, §2 (NEW).]

B. The vehicles transported:

(1) Carry only commodities in bulk, construction materials, or household goods, provided that the household goods are carried in tractor trailers; or

(2) Are construction equipment or special purpose vehicles, such as trash compactors and emergency equipment. Freight transported in the vehicles may not include food, beverages, perishables and wrapped or boxed freight; and [PL 1991, c. 774, §2 (NEW).]

C. Loading and unloading of vessels does not occur at wharves or docks used by the Casco Bay Island Transit District for its scheduled service. [PL 1991, c. 774, §2 (NEW).]
[PL 1991, c. 774, §2 (NEW).]

2. Peaks Island service. For service between Peaks Island and mainland Cumberland County and between Peaks Island and Long Island, Cliff Island, Little Diamond Island, Great Diamond Island, Chebeague Island or Bailey Island:

A. The service is for unscheduled transportation of a roll-on and roll-off vehicle, as defined by the commission by rule, with a cargo weight in excess of 5 gross tons, excluding 4-wheel trucks and cars of 10 or less gross tons unless carried in conjunction with a roll-on and roll-off vehicle with a cargo weight in excess of 5 gross tons; [PL 1991, c. 774, §2 (NEW).]

B. The vehicles transported:

(1) Carry only commodities in bulk, construction materials, or household goods, provided that the household goods are carried in tractor trailers; or

(2) Are construction equipment or special purpose vehicles, such as trash compactors and emergency equipment. Freight transported in the vehicles may not include food, beverages, perishables, and wrapped or boxed freight; [PL 1991, c. 774, §2 (NEW).]

C. The freight carried in vehicles transported on any single trip may consist of property of multiple owners only if that property was originally sold by a single vendor who is the owner of one of the vehicles transported on the trip or if the freight contained in the vehicles transported on the trip is for the performance or is related to the performance of a single contract performed or to be performed by the owner of one of the vehicles carried on the trip; and [PL 1991, c. 774, §2 (NEW).]

D. Loading and unloading of vehicles does not occur at any wharf or dock used by the Casco Bay Island Transit District for its scheduled service. [PL 1991, c. 774, §2 (NEW).]
[PL 1991, c. 774, §2 (NEW).]

3. Statement of fees. The tariff includes the statement of the hourly fee of the carrier and the minimum fee of the carrier, which may not be less than one hour at the hourly fee.
[PL 1991, c. 774, §2 (NEW).]

For the purposes of this section, the term "unscheduled transportation" means transportation that is provided on demand, not pursuant to any published or announced schedule and not as a part of a pattern of an operator in providing transportation at a regular or preset frequency. [PL 1991, c. 774, §2 (NEW).]

SECTION HISTORY

PL 1991, c. 774, §2 (NEW).

§5101-E. Unscheduled tours, charters and water taxi services

The commission shall adopt rules governing unscheduled tours, charters and water taxi services. [PL 1991, c. 774, §2 (NEW).]

SECTION HISTORY

PL 1991, c. 774, §2 (NEW).

§5101-F. Exemptions

Sections 5101-A to 5101-D do not apply to the operations of any ferry service to the extent that those operations involve service to Chebeague Island and to none of the other islands served by the Casco Bay Island Transit District. [PL 1991, c. 774, §2 (NEW).]

The Chebeague Transportation Company is not required to seek or hold a certificate of public convenience and necessity under section 5101 for ferry service between Chebeague Island and the mainland of Cumberland County north of Tukeys Bridge. [PL 1991, c. 774, §2 (NEW).]

SECTION HISTORY

PL 1991, c. 774, §2 (NEW).

§5102. Application of this Title

1. Authority over ferries. All ferries are subject to this Title and to the orders and rules adopted and promulgated by the commission under the authority of this Title, provided that ferries are not subject to the jurisdiction of the commission with respect to safety. [PL 1987, c. 475, §2 (NEW).]

2. Emergency. Persons providing emergency transportation, including transportation relating to emergency planning activities, under this Title are not public utilities subject to the jurisdiction of the commission. [PL 1991, c. 774, §3 (AMD).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1987, c. 475, §2 (AMD). PL 1991, c. 774, §3 (AMD).

§5103. Service, rates and schedules

All ferries shall maintain reasonable and adequate service, rates and schedules to the islands of Casco Bay as set out in section 5101 under rules promulgated by the commission. [PL 1987, c. 475, §2 (AMD).]

1. Rates.

[PL 1987, c. 475, §2 (RP).]

2. Schedules. The commission, when promulgating rules as to schedules, shall take into consideration the daily year-round service needs of the inhabitants of the islands of Casco Bay as set out in section 5101.

[PL 1987, c. 475, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1987, c. 475, §2 (AMD).

§5104. Exceptions for ferries carrying commodities in bulk

Nothing in this Part applies to the transportation of commodities in bulk. This exception applies only in case of commodities in bulk which are loaded and carried without wrappers or containers and received and delivered without transportation mark or count, except that carriers of petroleum fuels in bulk may also transport other products and accessories integral to the operation of motor vehicles and boats when they are included as part of the bulk shipment. The transportation of a commodity in motor vehicles, whether commercial or privately owned, upon a vessel may not be construed as a bulk movement of those commodities. [PL 1987, c. 475, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1987, c. 475, §2 (AMD).

§5105. Medical emergency

In the case of a medical emergency, transportation may be obtained from any person. [PL 1987, c. 475, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1987, c. 475, §2 (AMD).

§5106. Temporary certificate of public convenience and necessity

Subject to the provisions of this chapter, the commission may issue a temporary certificate of public convenience and necessity to authorize other persons to provide services to the islands of Casco Bay as set out in section 5101, when persons authorized under section 5101 are unable to provide a needed service. The commission may attach reasonable terms, conditions and limitations to the temporary certificates. [PL 1987, c. 475, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1987, c. 475, §2 (AMD).

§5107. Violation of this chapter; penalty

1. Offense. Whoever violates this chapter is guilty of unlawfully operating a ferry in Casco Bay. [PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Penalty. Unlawful operation of a ferry in Casco Bay is a Class E crime. [PL 1987, c. 141, Pt. A, §6 (NEW).]

3. Civil remedy. In addition to any other remedy provided in this chapter for the enforcement of this chapter or any rule, order or decision of the commission issued with relation to the operation of a ferry covered by this chapter, the Superior Court has jurisdiction upon complaint filed by the commission or the Casco Bay Island Transit District to enjoin a person from committing an act prohibited by this chapter or prohibited by a rule, order or decision of the commission in relation to the operation of transportation facilities in Casco Bay. It is the intention of the Legislature that the commission or the Casco Bay Island Transit District may seek an injunction under this section without first resorting to another form of administrative proceedings or court procedures as a condition precedent to the granting of the injunction. [PL 1987, c. 475, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1987, c. 475, §2 (AMD).

§5108. Radar requirements on vessels operating in Casco Bay (REPEALED)

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1987, c. 475, §2 (RP).

§5109. Standards; promulgation; enforcement**(REPEALED)**

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1987, c. 475, §2 (RP).

§5110. Lapse of unused certificates

Any certificate issued pursuant to this chapter that has not been used by the holder during the 2-year period prior to the effective date of this section lapses on the effective date of this section. Any other certificate issued under this chapter, other than a certificate for the transportation of mail, that is not used within 2 years after the date of its issuance lapses 2 years after the date of its issuance. Any certificate issued prior to the effective date of this section for the transportation of mail that is not used within 5 years of the date of issuance lapses 5 years after the date of its issuance. [PL 1991, c. 774, §4 (NEW).]

SECTION HISTORY

PL 1991, c. 774, §4 (NEW).

§5111. Repeal; report**(REPEALED)**

SECTION HISTORY

PL 1991, c. 774, §4 (NEW). PL 1993, c. 589, §8 (AMD). PL 1995, c. 559, §1 (RP).

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