

FINAL BILL REPORT

SHB 1304

C 419 L 07

Synopsis as Enacted

Brief Description: Modifying commercial motor vehicle carrier provisions.

Sponsors: By House Committee on Transportation (originally sponsored by Representatives Kagi, Clibborn, Jarrett, Flannigan, McCoy, Darneille, Lovick, Campbell, Schual-Berke, Kenney, Morrell and Roberts).

House Committee on Transportation
Senate Committee on Transportation

Background:

Substitute House Bill 2987 was enacted in the 2006 Legislative session. In the act, the Washington State Patrol (WSP) was directed to develop recommendations for improving the safe operation of commercial motor vehicles on Washington's highways and roads. Certain motor carriers operate commercial motor vehicles solely within the State of Washington (intrastate), while other motor carriers operate in multiple states (interstate).

The Federal Motor Carrier Safety Administration (FMCSA) regulates interstate motor carriers. The FMCSA and the WSP perform compliance reviews of interstate motor carriers. The FMCSA requires each interstate motor carrier to have a number issued by the United States Department of Transportation (USDOT number) and maintains a safety rating on each motor carrier. The FMCSA will issue an out-of-service order on a carrier if the carrier has received an unsatisfactory safety rating.

The WSP enforces safety requirements for intrastate operators of commercial vehicles, and has the authority to place any commercial vehicle out of service if it is found to be unsafe to operate on the roadways. The WSP conducts compliance reviews for most intrastate motor carriers, and has the authority to assess penalties for non-compliance with safety requirements. Motor vehicles owned and operated by farmers and those motor carriers subject to economic regulation by the Utilities and Transportation Commission are inspected by the WSP.

There is no requirement for intrastate motor carriers to have a USDOT number, so there is no convenient mechanism for tracking the relative safety fitness of an intrastate motor carrier.

Each vehicle subject to highway inspections and terminal audits that is base plated in Washington pays a fee of \$10 in addition to all other fees and taxes. These fees are deposited in the State Patrol Highway Account.

An unregistered commercial vehicle may operate on Washington highways under authority of a trip permit, which can be purchased for \$15, or in the case of a special fuel user, \$20. Trip permits may be used for a period of three consecutive days.

Summary:

The WSP will use data-driven analysis to identify and prioritize for inspection and compliance reviews those motor carriers who have been identified as higher risk carriers. Just as interstate motor carriers are required by the FMCSA to obtain a USDOT number, by January 1, 2008, intrastate motor carriers operating certain commercial vehicles with a gross vehicle weight over 26,001 pounds or carrying hazardous materials are required to apply for USDOT numbers. Motor carriers with commercial motor vehicles that weigh between 16,001 and 26,000 pounds, unless exempt, that have not applied for a Department of Transportation number, must apply for a Department of Transportation number by January 1, 2011. The WSP shall compile safety data about motor carriers and assess each motor carrier's relative safety fitness based upon inspections, collisions, compliance reviews, and carrier safety management practices.

The WSP, in consultation with the Department of Licensing (DOL), must establish rigorous rules and standards in the areas of commercial motor carrier driver training, controlled substance and alcohol use and testing, compliance with the federal driver's license requirements and penalties, vehicle equipment and safety standards, hazardous material practices, financial responsibility, driver qualifications, hours of service, vehicle inspection and corrective actions, and assessed penalties for noncompliance.

Prior to June 30, 2009, a motor carrier will need a USDOT number and a federal taxpayer identification number to register certain commercial motor vehicles. Commercial motor vehicles must be marked as prescribed by the WSP. The WSP will not issue a USDOT number to a carrier who has an existing out-of-service order from the FMCSA or for not meeting the requirements and standards of state law. Motor carriers with a current and valid USDOT number, or who are subject to economic regulations through the Utilities and Transportation Commission (UTC), are exempt from this requirement. A USDOT number is not required for publicly-owned vehicles.

The WSP is authorized to issue an out-of-service order on a motor carrier's USDOT number if the motor carrier:

- (a) formerly held a USDOT number that is placed out-of-service for cause and the violations have not been corrected;
- (b) is a subterfuge for the real party seeking a USDOT number that is placed out-of-service for violations and the violations have not been corrected;
- (c) is an eminent hazard to public safety as determined by the chief of the WSP;
- (d) has unpaid penalties assessed by the WSP or the UTC (if a compliance review penalty is not paid within 20 days after receipt of notification of penalties, the WSP may commence with an adjudicative proceeding); or
- (e) violates cease and desist orders issued by the UTC.

If a USDOT number has been placed out-of-service by the WSP or the FMCSA, the DOL will be notified and must revoke, or refuse to issue, registrations for all commercial vehicles owned by the motor carrier. Carriers will be ineligible for a new USDOT number, vehicle registrations, and temporary permits until such time the deficiencies resulting from an out-of-service order have been corrected.

The WSP is responsible for safety audits and compliance reviews, which may result in enforcement actions, including monetary penalties. The WSP is authorized to conduct inspections during regular business hours, to review records, and to penalize carriers for failing to cooperate or appear for the audit. Motor carriers who refuse entry for compliance review auditors will be subject to: a penalty of \$5,000; revocation of vehicle registrations; and an out-of-service order being placed on the motor carrier's USDOT number. If a carrier has been identified as a high-risk carrier and receives an unsatisfactory rating during a compliance review, the WSP will perform a follow-up inspection of the carrier to determine whether the violations have been corrected. The fee for the reinspection is \$250 and will be deposited into the State Patrol Highway Account.

Once an out-of-service order has been placed on a vehicle, it is unlawful to operate the vehicle. A carrier who operates a vehicle after receiving an unsatisfactory safety rating and violates an out-of-service order on the USDOT number is subject to a monetary penalty of not more than \$11,000. Violation of an out-of-service order subjects a driver to a penalty of at least \$1,100, but not more than \$2,750; an employer who allows a driver to operate the vehicle is subject to a penalty of at least \$2,750, but not more than \$11,000.

If a motor carrier operates a commercial vehicle using trip permits while the vehicle registration is revoked and the DOT number is placed out-of-service, the violation is a gross misdemeanor, subject to a penalty of no less than \$2,500 for the first violation and \$5,000 for subsequent violations.

The act increases the registration fee for commercial motor vehicles base plated in Washington that are subject to compliance reviews from \$10 to \$16; increases the trip permit fee from \$15 to \$20; and, increases the fuel permit administration fee from \$10 to \$15. The increase in permit fees must be deposited in the Washington State Patrol Highway Account and must be used for commercial motor vehicle inspections.

Votes on Final Passage:

House	88	9	
Senate	42	4	(Senate amended)
House	82	11	(House concurred)

Effective: July 22, 2007
May 11, 2007 (Section 10)