

SENATE BILL REPORT

SHB 1304

As Reported By Senate Committee On:
Transportation, March 26, 2007

Title: An act relating to commercial motor vehicle carriers.

Brief Description: Modifying commercial motor vehicle carrier provisions.

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

Brief History: Passed House: 2/28/07, 88-9.

Committee Activity: Transportation: 3/19/07, 3/26/07 [DPA].

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass as amended.

Signed by Senators Haugen, Chair; Marr, Vice Chair; Murray, Vice Chair; Swecker, Ranking Minority Member; Berkey, Clements, Delvin, Eide, Jacobsen, Kastama, Kauffman, Kilmer, Sheldon and Spanel.

Staff: Dory Nicpon (786-7321)

- Authorizes the Washington State Patrol (WSP) to use data-driven analysis to prioritize motor carriers for inspection and compliance reviews.
- Requires certain intrastate motor carriers to have United States Department of Transportation numbers.
- Authorizes the WSP to place motor carriers out of service until violations have been corrected.
- Increases penalties for commercial vehicle compliance and safety violations.
- Increases trip permit fees by \$5; the additional amount is dedicated to commercial vehicle inspections.
- Increases the registration fee for vehicles subject to highway inspections and terminal audits from \$10 to \$16.

Background: Substitute House Bill 2987 was enacted from the 2006 Legislative Session and directed the Washington State Patrol (WSP) to develop recommendations for improving the safe operation of commercial motor vehicles on Washington's highways and roads.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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 to a carrier that accumulates 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 of Substitute Bill: 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. The WSP must 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.

By 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:

- 1) formerly held a USDOT number which is placed out of service for cause and the violations have not been corrected;
- 2) is a subterfuge for the real party seeking a USDOT number which is placed out of service for violations, and the violations have not been corrected;
- 3) is an eminent hazard to public safety as determined by the chief of the WSP;
- 4) 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
- 5) 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 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 at least a \$1,100 penalty, but not more than \$2,750 penalty. An employer who allows a driver to operate the vehicle in violation of an out-of-service order 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 USDOT 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 bill increases the following fees: the registration fee for commercial motor vehicles base-plated in Washington that are subject to compliance reviews is increased from \$10 to \$16; the trip permit fee is increased from \$15 to \$20; and the fuel permit administration fee is

increased 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.

EFFECT OF CHANGES MADE BY RECOMMENDED AMENDMENT(S) AS PASSED COMMITTEE (Transportation): Requires motor carriers with a commercial vehicle between 16,001-26,000 pounds to apply for a USDOT number by January 1, 2011, and present the USDOT number to the DOL upon application or renewal of the commercial motor vehicle beginning June 30, 2012.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony: PRO: This bill will increase commercial vehicle safety, and provide the Washington State Patrol (WSP) with the authority and resources to require and enforce safe practices. Without this legislation, there will be inadequate disincentives for motor carriers to take dangerous shortcuts that result in the loss of lives. The bill gives WSP a mechanism to track motor carriers, prioritize unsafe motor carriers for safety inspections, and penalize or place out of service those motor carriers with unsafe practices.

OTHER: Farm vehicles should be exempt from the requirement of obtaining a USDOT number. While farmers are concerned about safety, they are also concerned about the impact of the bill.

Persons Testifying: PRO: Representative Ruth Kagi, prime sponsor; Cheryl Peach, Kathleen Ellsbury, Eileen Llona, citizens; Gordon Walgren, Brad Lovaas, Washington Refuse and Recycling Association; Mike Southards, Washington Trucking Association; Lieutenant Darrin Grondel, Captain Jeff DeVere, Washington State Patrol; Liz Luce, Department of Licensing.

OTHER: Heather Hansen, Washington Association of Wheat Growers.