FINAL BILL REPORT
SHB 1719

C 82 L 11
Synopsis as Enacted

Brief Description: Limiting liability for unauthorized passengers in a vehicle.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Rodne, Schmick, Haler, Smith, Wilcox, Johnson, Klippert, Kristiansen, McCune, Short, Ross and Warnick).

House Committee on Judiciary
Senate Committee on Judiciary

Background:

The common-law theory of "respondeat superior" allows an employer, including state and local governments in Washington, to be held vicariously liable for an employee's tortious act under certain circumstances. Generally, the employee must commit tortious conduct in the scope of his or her employment, although Washington courts have held that an employer may be held liable for conduct that occurs when an employee does a mix of work and personal business.

In the case of *Rahman v. State*, the Washington Supreme Court held that the state may be vicariously liable for injuries suffered by a third-party passenger in a state vehicle driven by a state employee for work purposes. The plaintiff in *Rahman* was the wife of a state agency intern injured when her husband, Mohammad Shahidur Rahman, failed to negotiate a curve while driving from Olympia to Spokane. Although Rahman was driving for work purposes, state rules prohibited him from bringing non-employee passengers. The majority ruled that court precedents and sound policy weighed in favor of holding the state vicariously liable because Rahman was in the service of the state's business at the time of the accident.

The dissent argued that the state should not be liable because Rahman was not authorized to transport non-employees, and thus he acted outside the scope of his employment. The dissent contended that the policy underlying respondeat superior—an employer's control over an employee—is absent when the employee is not acting with actual or apparent authority and the employer has no control over the employee.

Summary:

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.

The Legislature intends to overrule the Washington Supreme Court's decision in *Rahman v. State* by modifying the application of the legal doctrine of respondeat superior.

State and local governments are not liable for injuries suffered by a third-party occupant of a vehicle owned, leased, or rented by the government if, at the time the injuries occurred, the third-party occupant was: (1) riding in or on the vehicle with a government employee who had explicitly acknowledged in writing the government's policy on use of such vehicles; and (2) not expressly authorized by the government to be an occupant of the vehicle. Third-party occupants are people who occupy a government vehicle who are not government officers, employees, or agents. Local governments include cities, counties, or other subdivisions of the state and any municipal corporations, quasi-municipal corporations, or special districts within the state.

A private employer is not liable for any injury suffered by a third-party occupant of a vehicle owned, leased, or rented by the employer when the third-party occupant was riding in or on the vehicle with an employee who had explicitly acknowledged in writing the employer's policy on use of such vehicles, unless: (1) the employer specifically and expressly authorized the occupancy; or (2) the third-party occupant was acting on behalf of or for the benefit of the employer, and the employer knew or impliedly approved or acquiesced. Third-party occupants are people who occupy an employer vehicle who are not officers, employees, agents, or authorized or constructive invitees of the private employer.

The act applies to all causes of action accruing on or after the act's effective date.

Votes on Final Passage:

House	98	0
Senate	49	0

Effective: July 22, 2011