

HOUSE BILL REPORT

HB 2527

As Reported by House Committee On: Transportation

Title: An act relating to intermodal container chassis.

Brief Description: Concerning intermodal container chassis.

Sponsors: Representatives Eddy, Upthegrove, Van De Wege, Springer, Moscoso, Armstrong, Asay, Fitzgibbon, Liias and Moeller.

Brief History:

Committee Activity:

Transportation: 1/30/12, 2/6/12, 2/7/12 [DPS].

Brief Summary of Substitute Bill

- Provides an intent statement for the Legislature to ensure safe transport of intermodal cargo and fair treatment of all persons engaged in that transport.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 23 members: Representatives Clibborn, Chair; Billig, Vice Chair; Liias, Vice Chair; Armstrong, Ranking Minority Member; Asay, Eddy, Finn, Fitzgibbon, Hansen, Jinkins, Johnson, Klippert, Ladenburg, McCune, Moeller, Morris, Moscoso, Reykdal, Rivers, Ryu, Takko, Upthegrove and Zeiger.

Minority Report: Do not pass. Signed by 6 members: Representatives Hargrove, Assistant Ranking Minority Member; Angel, Kristiansen, Overstreet, Rodne and Shea.

Staff: Jerry Long (786-7306).

Background:

An "intermodal container chassis" or "chassis" means a trailer designed to carry intermodal freight containers. An "intermodal equipment provider (IEP)" means any person that interchanges intermodal equipment (IME) with a motor carrier pursuant to a written

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interchange agreement or has a contractual responsibility for the maintenance of the IME. An "intermodal container" means a container that can be moved from one mode of transport to another without unloading and reloading the contents of the container.

There are requirements under the Federal Motor Carrier Safety Administration (FMCSA) regulations regarding the IMEs and the IEPs. An IEP must:

- mark its IME with a United States Department of Transportation number, which became a requirement on December 17, 2010;
- systematically inspect the IME at least every 12 months, repair, and maintain, or cause the IME to be systematically inspected, repaired, and maintained in a manner consistent with federal regulations;
- ensure that the IME intended for interchange with a motor carrier is in safe and proper operating condition;
- maintain a system of driver inspection reports;
- maintain a system of inspection, repair, and maintenance records and periodically inspect the equipment;
- at facilities at which the IEP makes the IME available for interchange, have procedures in place and provide sufficient space for a driver to perform a pre-trip inspection of the tendered IME; and
- at facilities at which the IEP makes the IME available for interchange, develop and implement procedures to repair any equipment damage, defects, or deficiencies identified as part of a pre-trip inspection, or replace the equipment, prior to the driver's departure. The repairs or replacement must be made after being notified by a driver of such damage, defects, or deficiencies.

Before operating the IME on the road, the driver accepting the equipment must:

- inspect the equipment components listed in the federal regulations and be satisfied they are in good working order; and
- during the pre-trip inspection, check that the following parts of the chassis are in good working order: brakes and connections; lights and reflectors; tires; wheels; lugs; couplers; chassis rails and frames; tie downs; locking pins; clevis; clamps; hooks; and sliding frame lock.

A driver or motor carrier transporting the IME must report to the IEP, or its designated agent, any known damage, defects, or deficiencies in the IME at the time the equipment is returned to the provider or the provider's designated agent. If a driver finds a defect during the inspection, the IEP must either fix the problem or replace the IME before the driver begins the trip.

To evaluate an IEP's safety and compliance, the FMCSA will conduct roadability reviews which includes an on-site examination of an IEP's inspection, repair, and maintenance operations and records. The FMCSA may cite the IEP for violations found and may impose civil penalties. State and local law enforcement can also enforce compliance with the federal regulations.

The driver is responsible for moving violations and, in most cases, will receive the traffic citation for a nonmoving violation.

Summary of Substitute Bill:

The substitute bill provides an intent statement for the Legislature to ensure safe transport of intermodal cargo and fair treatment of all persons engaged in that transport.

Substitute Bill Compared to Original Bill:

The substitute bill strikes the provisions relating to: (1) infractions against intermodal equipment providers; (2) compliance with federal intermodal container chassis inspection regulations; and (3) the definition of "intermodal container."

The substitute bill adds an intent statement.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect on July 1, 2012.

Staff Summary of Public Testimony:

(In support) The major issue is safety. According to federal regulations regarding intermodal equipment, there is a required pre-trip inspection that the driver must perform prior to leaving the port terminal. There are items in federal code that the driver must check during the pre-trip inspection. When the chassis is returned back to the marine terminal, the driver must report any safety defects to the equipment provider or the company they are contracting with. The safety defects are required to be repaired prior to the equipment being placed back in service.

At the Port of Seattle (Port), there are approximately 450 truck drivers that pick up chassis and containers. A normal day is from 5 a.m. to 7 p.m. and the average pay per load is \$44, which equates to \$6 to \$8 per hour. The job can be dangerous due to the amount of traffic within the marine terminal and the drivers feel that they risk their lives every day. The driver does not know what is in the containers or the weight of the containers. In some cases, hazardous materials are in the containers and only when it meets a certain weight limit is the container marked as carrying hazardous materials. Most chassis are 30 to 40 years old. Sometimes the chassis may appear to be okay at the marine terminal. Once on the roadway doing 60 miles an hour, it is not. A driver, not knowing the weight of a container, once on the public roadways if overweight will receive the citation, which will go against the driver's commercial driver's license. It is dangerous to drive a truck that is overloaded and places the driver and the public at risk. At some of the terminals, drivers are not allowed to leave the truck and perform pre-trip inspections prior to leaving the marine terminal due to safety concerns. The average driver makes \$25,000 to \$30,000 per year. Sometimes it may take several hours to exchange a chassis that has safety defects, which reduces the opportunity for

additional loads for the driver to transport that day. If a driver turns down a load due to safety concerns with the chassis or container, the company will retaliate against the driver by reduced work. The work environment is very hostile. The average work week for a driver is approximately 60 hours.

The companies that the drivers drive for usually lease their trucks and drivers and pay the drivers by the load. The drivers are still responsible for the maintenance on their trucks that are leased to the company arranging the movement of the containers.

(With concerns) A family vehicle was hit by parts from a chassis while traveling north on Interstate 5. The airbags deployed, but no one was seriously hurt. The story was on KING 5 news. The company wanted to settle right away, of course, because negative press for the company is bad for business. Drivers must have time to perform the pre-trip inspection and the equipment providers must be responsible for the condition of their equipment. International trade is important to the State of Washington. The underlying bill had issues, but the proposed substitute bill brings the drivers and ports a little closer. The Washington State Patrol has been part of the work group. It is required that a driver perform a pre-trip inspection. If a driver reports prior to leaving the marine terminal that there are safety defects, the driver should not be held responsible for any citations regarding the items found during that inspection. Law enforcement do not want the containers to fall off of chassis due to a pre-trip inspection not being conducted. One of the items in the checklist is to make sure the container is locked onto the chassis. Based on the KING 5 news stories, there is a need to provide enforcement and make progress in identifying and fixing safety defects. When the stories aired, there was an 80 percent out-of-service rate on the chassis at the Port.

(Opposed) Stakeholders appreciate the process, but since the new federal regulations have been implemented for intermodal equipment, most of the equipment, instead of belonging to steamships, actually belongs to terminal operators or equipment providers. The process concerning the intermodal chassis and containers is in the federal regulations along with the responsibilities of the parties. The marine terminal operators already work within the FMCSA guidelines to make sure that the intermodal equipment is safe. If a driver requires another chassis due to safety defects, the driver does not go back to the line. It is arranged for that driver to pick up another chassis and container, which takes approximately 30 minutes. There are no containers that have been found to be overweight and the marine terminal operators know how much the container actually weighs. The process is industrywide and the terminal operators follow the FMCSA regulations.

At the Port, the truck drivers cannot work on the chassis. The only people that work and correct safety defects on a chassis are the union mechanics at the Port.

At the rail terminals, there are inspection areas for the pre-trip inspection. In many cases, the companies reimburse the driver for citations related to safety and weight violations. There are already regulations in place and the intermodal issue is a federal issue, not a state issue since it is interstate and not intrastate.

Retailers are concerned about the time it takes to inspect and replace chassis that are out of service, which will impact goods arriving at retail locations on time.

The chassis located at the ports are not controlled by the chassis providers. The chassis are leased to the marine terminals or companies. Being overweight has nothing to do with the chassis providers, so the providers should not receive any citations for the chassis and containers being overweight. Drivers should be getting a bill of lading that shows the type of cargo and the weight. Any hazardous materials in a container that is under 2,000 pounds does not have to be disclosed.

Persons Testifying: (In support) Representative Eddy, prime sponsor; Aynalem Moba; Calvin Borders; Semere Woldu; Paul Marvy, Coalition for Clean and Safe Ports and Change to Win; Abraham Abra; Kayla and Michael Thom; and Keyza Masaazi.

(With concerns) Michael Kidane, Seattle Port Trucking; Eric Johnson, Washington Public Ports Association; and Jason Berry, Washington State Patrol.

(Opposed) Scott Hazlegrove, Pacific Merchant Shipping Association; Dick Leather, Eagle Marine Services; Tom Reagan, Direct Chassis Link; Mark Johnson, Washington Retail Associates; and Terry Finn, Burlington Northern Santa Fe Railway.

Persons Signed In To Testify But Not Testifying: None.