

HOUSE BILL REPORT

SSB 5836

As Reported by House Committee On: Transportation

Title: An act relating to allowing certain private transportation providers to use certain public transportation facilities.

Brief Description: Allowing certain private transportation providers to use certain public transportation facilities.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators King, Haugen, Hobbs, Delvin and Shin).

Brief History:

Committee Activity:

Transportation: 3/14/11, 3/30/11 [DPA].

Brief Summary of Substitute Bill (As Amended by House)

- Authorizes the Washington State Department of Transportation (WSDOT) and local jurisdictions to allow certain private transportation provider vehicles to use high occupancy vehicle lanes and lanes reserved for public transportation, except for transit-only lanes that allow other vehicles to access abutting businesses.
- Requires transit agencies that receive state funding for park and ride lots to make reasonable accommodations for certain private transportation providers unless the facility is at or exceeds 90 percent capacity during two consecutive months.
- Requires the WSDOT and local authorities, when designing portions of roadways intended for the exclusive or preferential use of public transportation, to consider whether the design will safely accommodate certain private transportation provider vehicles.

HOUSE COMMITTEE ON TRANSPORTATION

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.

Majority Report: Do pass as amended. Signed by 28 members: Representatives Clibborn, Chair; Billig, Vice Chair; Liias, Vice Chair; Armstrong, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Angel, Asay, Eddy, Finn, Fitzgibbon, Jinkins, Johnson, Klippert, Kristiansen, Ladenburg, McCune, Moeller, Morris, Moscoso, Reykdal, Rivers, Rodne, Rolfes, Ryu, Shea, Takko, Upthegrove and Zeiger.

Minority Report: Do not pass. Signed by 1 member: Representative Overstreet.

Staff: David Munnecke (786-7315).

Background:

Lane Use and Restrictions.

For nonlimited access facilities, the Washington State Department of Transportation (WSDOT) and local jurisdictions are authorized to reserve all or any portion of a highway or roadway for the exclusive or preferential use of public transportation vehicles or private vehicles carrying no fewer than a certain number of passengers (high occupancy vehicles or HOVs) when such limitation will increase the efficient utilization of the highway or will aid in the conservation of energy resources. Public transportation vehicles may use the HOV lanes regardless of the number of passengers actually in the vehicle, but all private vehicles must meet the HOV occupancy requirements.

For limited access facilities, the WSDOT and local jurisdictions are authorized to reserve all or any portion of a limited access facility for the exclusive or preferential use of public transportation vehicles, privately owned buses, or other private vehicles carrying the minimum number of specified passengers, when such limitation will increase the efficient utilization of the highway or will aid in the conservation of energy resources.

The WSDOT has adopted administrative rules regarding the use of the HOV lanes on certain limited access highways (interstate highways, state highways, and ramps). Those rules may be read to permit public transportation buses, private buses that have the capacity to carry at least 16 persons, and emergency vehicles to use the HOV lanes regardless of the number of passengers actually in the vehicle. A truck that weighs more than 10,000 pounds may not use the HOV lanes, regardless of how many persons occupy the truck.

Park and Ride Lots.

Various local transit agencies own and operate park and ride lots as part of the agencies' public transportation service, and they provide regularly scheduled service at the lots. Local transit agencies that receive state funding for a park and ride lot must enter into an agreement to make reasonable accommodation for use of that lot by auto transportation companies, such as airporters, and private special needs transportation providers that intend to provide or already provide regularly scheduled service at that lot. In exchange for making such accommodations, transit agencies may recover costs and fair market value from the private provider for use of the lot. Transit agencies do not have to make any accommodation if the lot is at or exceeds 90 percent capacity.

Summary of Amended Bill:

Lane Use and Restrictions.

For both limited access and nonlimited access facilities, the authority of the WSDOT and local jurisdictions is expanded to allow certain private transportation vehicles: auto transportation company vehicles, such as airporter vehicles; charter carrier vehicles, except certain limousines as defined by Department of Licensing (DOL) rule; private special needs transportation provider vehicles; and private employer transportation service vehicles (collectively referred to as "specified private transportation vehicles") to use the HOV lanes and lanes reserved for public transportation, except for transit-only lanes that allow other vehicles to access abutting businesses. The WSDOT and local authorities are specifically allowed to prohibit the use of HOV lanes by private transportation providers if the speed in the lane falls below 45 miles per hour at least 90 percent of the time during peak hours. The term "private employer transportation service" is defined to mean regularly scheduled, fixed-route transportation service that is offered by an employer for the benefit of its employees.

Local authorities are encouraged to establish a process for private transportation providers to apply for the use of lanes reserved for public transportation, which must include providing a list of facilities that the local authority determines to be unavailable for such use. The application and review process must be uniform and should provide for a quick response. The WSDOT is required to convene a stakeholder process to develop standard forms, explanations of rate calculations, and standard indemnification provisions, which may be used by all local authorities.

Park and Ride Lots.

In addition to accommodating auto transportation companies and private special needs transportation providers, local transit agencies that receive state funding for a park and ride lot are required to make reasonable accommodation for use of that lot by charter carriers, except certain limousines as defined by the DOL rule, and private employer transportation services providers. For all specified private transportation vehicles, it is established that accommodation need not be made if the park and ride is at or exceeds 90 percent capacity between 6 a.m. and 4 p.m., Monday through Friday, for two consecutive months. Transit agencies are allowed to recover actual costs and fair market value for use of the lot. A private transportation provider is responsible for paying the transit agency in full for use of a park and ride lot, and the agreement may be terminated if the private transportation provider violates any policies regarding the use of the park and ride lots.

Miscellaneous.

When designing portions of a highway that are intended to be reserved for the exclusive or preferential use of public transportation vehicles, the WSDOT and local jurisdictions are required to consider whether the design will safely accommodate specified private transportation vehicles.

It is established that if any part of the act is found to conflict with a prescribed condition to receipt of federal funding, the conflicting portion is inoperable to the extent of the conflict and with respect to the agencies directly affected.

Amended Bill Compared to Substitute Bill:

The amended bill removes the requirement that certain private transportation provider vehicles be allowed to use the left lane of the roadway, and allows, rather than requires, the WSDOT and local authorities to authorize the use of the HOV and transit-only lanes, except for business access and transit lanes, by private transportation provider vehicles, and specifically allows for the prohibition of such vehicles in an HOV lane if the speed in the lane falls below 45 miles per hour at least 90 percent of the time during peak hours.

Local authorities are encouraged to establish a process for private transportation providers to apply for the use of lanes reserved for public transportation, which must include providing a list of facilities that the local authority determines to be unavailable for such use. The application and review process must be uniform and should provide for a quick response. The WSDOT is required to convene a stakeholder process to develop standard forms, explanations of rate calculations, and standard indemnification provisions, which may be used by all local authorities.

The existing requirements regarding the use of park and ride lots by private transportation providers is modified to broaden the types of providers that can use the lots, and the time frame to be considered when deciding if there is sufficient capacity in the lots is clarified to be between 6 a.m. and 4 p.m., Monday through Friday, for two consecutive months. The current provision allowing transit agencies to recover costs and fair market value for use of the lot is modified by allowing the transit agencies to recover actual costs and fair market value. It is clarified that the private transportation provider is responsible for paying the transit agency in full, and the agreement may be terminated if the private transportation provider violates any polices regarding the use of the park and ride lots.

Local authorities are added to the entities whose federal funding must be considered when determining if any portion of the act must be rendered inoperable.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill allows private providers to use left lanes and the HOV lanes when deadheading after dropping off passengers at the airport. This allows them to get back to pick up the next load of passengers more quickly.

Private transportation providers are part of the solution, not part of the problem. They reduce congestion and emissions, but without the benefit of tax dollars. The private providers are not asking to use the tunnels in Seattle and Bremerton, they are not asking to use the ferry terminals, and they are not asking to use 3rd Avenue in Seattle during peak hours. Private

providers want to create a working relationship that works, and they are looking for equal treatment with public transit.

Motor coaches are at the top of the list of energy efficient vehicles because they do not travel empty. Allowing such buses to access the HOV and left lanes of the roadway increases the efficiency of the transportation system and helps the state meet its commute trip reduction goals.

When a van is sitting on Interstate 405 waiting in traffic to get to a pick-up, it is a problem. Shuttle Express operates a lot of vehicles that reduce congestion on the roads, and this bill would help it do more.

Each airporter trip replaces 4.3 automobiles on the road. Only one vehicle per hour would be added to the lane if such vans were allowed to use the HOV lanes, and only 18 percent of total trips are deadheading. The predictability of the service would also be increased.

(With concerns) King County Metro (Metro) provides 360,000 rides per day, and with gas prices going up this number will increase. Fifty percent of the trips are for school or work, and half are on state facilities. Metro appreciates the support that private providers provide to the system. Metro already works closely with private employers and can also work with private providers.

Where federal funding is a part of the equation, the federal restrictions on the use of federally funded facilities must be taken into consideration. Making determinations regarding the use of a facility on a case-by-case basis can also be a problem.

Public transit already works with private providers in a variety of areas throughout the state. However, federal law requires that no fewer than two occupants be in a vehicle in an HOV lane, and it does not contain an exception for private providers. Allowing private providers in the HOV lanes also has the potential to degrade the use of the lane for everyone.

The WSDOT can monitor the HOV lane performance and make adjustments as necessary. Microsoft has converted a number of people to public transit, which in turn reduces emissions. Fuel prices start to affect use of Microsoft's bus service at about \$3.50 per gallon, and Microsoft is aiming for a 50/50 mode split between drivers and nondrivers by 2015.

The Community Transit bus rapid transit system was constructed using federal, state, and local money, and the ridership in the corridor is up by 25 percent since the system began operating. The system uses bus access and transit lanes. The system works because it is efficient, and adding vehicles to the lanes will adversely affect this.

(Opposed) None.

Persons Testifying: (In support) Senator King, prime sponsor; Thomas Cook and Gladys Gillis, Northwest Motorcoach Association; Amber Carter, Association of Washington Business; Steve Salins, Shuttle Express; and Jim Fricke, Capital Airporter.

(With concerns) Harold Taniguchi, King County Metro; Michael Shaw, Washington State Transit Association; Jim Stanton, Microsoft; and Davor Gjurasic, Community Transit.

Persons Signed In To Testify But Not Testifying: None.