
HOUSE BILL 2395

State of Washington

62nd Legislature

2012 Regular Session

By Representatives Sells, Reykdal, Upthegrove, Ryu, Moscoso, Ormsby, Hasegawa, Fitzgibbon, Hudgins, Darneille, Cody, Kenney, Santos, Roberts, Green, Miloscia, Pettigrew, Dickerson, Moeller, Appleton, Liias, Jenkins, Dunshee, Van De Wege, Goodman, Orwall, Hunt, Wylie, Billig, and Probst

Read first time 01/13/12. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to drayage truck operators; adding a new section to
2 chapter 49.12 RCW; adding a new section to chapter 49.17 RCW; adding a
3 new section to chapter 49.46 RCW; adding a new section to chapter 49.48
4 RCW; adding a new section to chapter 49.60 RCW; adding a new section to
5 chapter 50.04 RCW; and creating new sections.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds that misclassification
8 of drayage drivers as independent contractors results in drivers
9 working in unsafe conditions and without the benefit of such
10 protections as overtime wages and unemployment benefits. The
11 legislature further finds that misclassification is unfair to law-
12 abiding businesses and results in lost revenue to the state. By
13 defining drayage drivers as statutory employees, the legislature
14 intends to avoid litigation, increase safety to drivers and the public,
15 insure drivers receive employment protections to which they are
16 entitled, and facilitate collection of taxes. The legislature intends
17 that the statutory inclusion of drayage drivers under the employment
18 standards in this act is not evidence of legislative intent to exclude
19 drayage drivers from the protection of other employment standards.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.12 RCW
2 to read as follows:

3 A drayage truck operator is an employee and the entity or person
4 who arranges for or engages the services of the drayage truck operator
5 is an employer for purposes of this chapter. For purposes of this
6 section, "drayage truck operator" means the driver of any in-use on-
7 road vehicle with a gross vehicle weight rating greater than thirty-
8 three thousand pounds operating on or transgressing through port or
9 intermodal rail yard property for the purpose of loading, unloading, or
10 transporting cargo, including containerized, bulk, or break-bulk goods.

11 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.17 RCW
12 to read as follows:

13 A drayage truck operator is an employee and the entity or person
14 who arranges for or engages the services of the drayage truck operator
15 is an employer for purposes of this chapter. For purposes of this
16 section, "drayage truck operator" means the driver of any in-use on-
17 road vehicle with a gross vehicle weight rating greater than thirty-
18 three thousand pounds operating on or transgressing through port or
19 intermodal rail yard property for the purpose of loading, unloading, or
20 transporting cargo, including containerized, bulk, or break-bulk goods.

21 NEW SECTION. **Sec. 4.** A new section is added to chapter 49.46 RCW
22 to read as follows:

23 A drayage truck operator is an employee and the entity or person
24 who arranges for or engages the services of the drayage truck operator
25 is an employer for purposes of this chapter. For purposes of this
26 section, "drayage truck operator" means the driver of any in-use on-
27 road vehicle with a gross vehicle weight rating greater than thirty-
28 three thousand pounds operating on or transgressing through port or
29 intermodal rail yard property for the purpose of loading, unloading, or
30 transporting cargo, including containerized, bulk, or break-bulk goods.

31 NEW SECTION. **Sec. 5.** A new section is added to chapter 49.48 RCW
32 to read as follows:

33 A drayage truck operator is an employee and the entity or person
34 who arranges for or engages the services of the drayage truck operator
35 is an employer for purposes of this chapter. For purposes of this

1 section, "drayage truck operator" means the driver of any in-use on-
2 road vehicle with a gross vehicle weight rating greater than thirty-
3 three thousand pounds operating on or transgressing through port or
4 intermodal rail yard property for the purpose of loading, unloading, or
5 transporting cargo, including containerized, bulk, or break-bulk goods.

6 NEW SECTION. **Sec. 6.** A new section is added to chapter 49.60 RCW
7 to read as follows:

8 A drayage truck operator is an employee and the entity or person
9 who arranges for or engages the services of the drayage truck operator
10 is an employer for purposes of this chapter. For purposes of this
11 section, "drayage truck operator" means the driver of any in-use on-
12 road vehicle with a gross vehicle weight rating greater than thirty-
13 three thousand pounds operating on or transgressing through port or
14 intermodal rail yard property for the purpose of loading, unloading, or
15 transporting cargo, including containerized, bulk, or break-bulk goods.

16 NEW SECTION. **Sec. 7.** A new section is added to chapter 50.04 RCW
17 to read as follows:

18 Services performed by a drayage truck operator are considered
19 services in employment, not subject to RCW 50.04.140. For purposes of
20 this section, "drayage truck operator" means the driver of any in-use
21 on-road vehicle with a gross vehicle weight rating greater than thirty-
22 three thousand pounds operating on or transgressing through port or
23 intermodal rail yard property for the purpose of loading, unloading, or
24 transporting cargo, including containerized, bulk, or break-bulk goods.

25 NEW SECTION. **Sec. 8.** If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

29 NEW SECTION. **Sec. 9.** If any part of this act is found to be in
30 conflict with federal requirements that are a prescribed condition to
31 the allocation of federal funds to the state, the conflicting part of
32 this act is inoperative solely to the extent of the conflict and with
33 respect to the agencies directly affected, and this finding does not
34 affect the operation of the remainder of this act in its application to

1 the agencies concerned. Rules adopted under this act must meet federal
2 requirements that are a necessary condition to the receipt of federal
3 funds by the state.

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