

HOUSE BILL REPORT

HB 1620

As Reported by House Committee On: Transportation

Title: An act relating to passenger-carrying vehicles for railroad employees.

Brief Description: Concerning passenger-carrying vehicles for railroad employees.

Sponsors: Representatives Stanford, Zeiger, Takko, Haler, Blake, Liias, Clibborn, Jinkins, Wilcox, Ryu, Ormsby, Sells, Appleton, Pedersen, Upthegrove, Magendanz, Pollet, Orcutt, Johnson, Angel, Condotta, Carlyle, Kristiansen, Moeller, Fitzgibbon, Moscoso, Morrell and Santos.

Brief History:

Committee Activity:

Transportation: 2/20/13, 3/1/13 [DPS].

Brief Summary of Substitute Bill

- Applies state laws regarding "passenger-carrying vehicles" to such vehicles when they are operated by a railroad company's agents, contractors, subcontractors, or vendors.
- Requires that the Utilities and Transportation Commission (UTC) adopt additional rules covering these passenger-carrying vehicles, including additional safety and driver qualification standards and a minimum insurance requirement.
- Establishes procedures and penalties regarding safety complaints related to passenger-carrying vehicles.
- Provides certain exemptions to railroads depending upon their Class or number of employees.
- Directs the UTC to study incidents and accidents involving these vehicles, and provide annual reports and recommendations to the Legislature.

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: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 27 members: Representatives Clibborn, Chair; Fey, Vice Chair; Liias, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Angel, Bergquist, Farrell, Fitzgibbon, Freeman, Habib, Hayes, Johnson, Kochmar, Kristiansen, Moeller, Morris, O'Ban, Riccelli, Rodne, Ryu, Sells, Takko, Tarleton, Upthegrove and Zeiger.

Minority Report: Do not pass. Signed by 4 members: Representatives Overstreet, Assistant Ranking Minority Member; Klippert, Kretz and Shea.

Staff: Andrew Russell (786-7143).

Background:

The Utilities and Transportation Commission (UTC) has regulatory authority over several aspects of railroad safety and operations, including the services of "passenger-carrying vehicles." These vehicles are operated and maintained by railroad companies to transport railroad employees between employment assignments.

The railroad companies that operate these vehicles must meet minimum safety standards. For example, any vehicle must have an adequate exhaust system, rear vision mirrors, a heating system, and emergency and first aid kits. Additionally, drivers must be at least 18 years old, have a valid driver's license, and be capable of handling the controls with ease. The UTC also imposes a daily hours of service limit on drivers. In driving these vehicles, the operator must bring the vehicle to a complete stop at least 15 feet from any railroad crossing, unless traffic is controlled by a police officer, traffic control signal, or crossing gate. Finally, the UTC prohibits passengers from entering or exiting the vehicle while it is in motion and riding anywhere except inside the vehicle.

These vehicles may also be operated by independent carriers that have a contract with the railroad company. In that situation, the UTC's railroad passenger-carrying vehicle rules do not apply, and the contractor is subject to the UTC's rules regarding passenger transportation companies. The UTC requires operators to obtain a certificate of operation from the UTC, and operators must maintain a minimum level of insurance. The level of mandatory insurance coverage is \$1,500,000 for vehicles that carry 15 or fewer people.

In overseeing these companies, the UTC has also adopted federal regulations that cover safety standards for commercial motor vehicles. These federal regulations provide equipment standards that are necessary for safe operation, such as headlights and brakes. The regulations also provide standards for driving commercial vehicles, such as stopping at railroad crossings. The hours of service for drivers are limited by federal regulation, as are the standards for transporting hazardous materials. Finally, inspections and regular maintenance are mandated.

Summary of Substitute Bill:

Any railroad company's agent, contractor, subcontractor, or vendor is subject to the same safety requirements that apply to the railroad company when the railroad company operates passenger-carrying vehicles to transport employees as passengers in the course of their work assignments. Furthermore, these standards are expanded to include additional safety, equipment, and operational provisions. First, the UTC must determine appropriate makes and models, maximum life span, and require periodic inspections of the vehicles. Additionally, the UTC must adopt rules concerning the stowage of personal belongings, luggage, materials, and equipment. The qualifications of drivers must be regulated by the UTC, considering factors such as the appropriate class of commercial driver's license, training programs, and driving history. A driver can be disqualified from operating a passenger-carrying vehicle if his or her license is suspended or revoked multiple times. Finally, the UTC must adopt minimum standards for the safety equipment in passenger-carrying vehicles, including safety headrests, seat belts, and airbags.

Any company that operates a passenger-carrying vehicle must maintain an adequate level of insurance. This insurance policy must provide liability, property, underinsured, and uninsured motorist coverage and cover any damage to public and private property. Finally, the minimum levels of coverage include \$5,000,000 of liability insurance, \$5,000,000 of uninsured and underinsured motorist coverage, and \$500,000 of coverage for damage to property. These limits, however, may be increased by rule adopted by the UTC.

Companies that operate passenger-carrying vehicles are required to retain operational records of passenger-carrying vehicles for three years and send them to the UTC annually, which must also retain the records for three years. The substitute bill also empowers the UTC to inspect the passenger-carrying vehicles of a railroad company's agent, contractor, subcontractor, or vendor. The substitute bill directs the UTC to investigate safety complaints and requires that railroad companies provide a means to track safety complaints to resolution. Finally, railroad companies must provide to newly hired employees information about how to file safety complaints regarding these vehicles with the UTC.

The UTC may also suspend the operational license of the operator of passenger-carrying vehicles for serious or repeated violations. Additionally, the UTC may impose penalties on a railroad company for repeated safety violations by the operators of passenger-carrying vehicles.

The substitute bill provides that Class II and Class III railroads may be granted waivers from these regulations by the UTC. These waivers may cover most regulatory requirements, but operators of passenger-carrying vehicles must maintain adequate levels of insurance. It also requires that the UTC review these waivers every four years and provides that the UTC may cancel a waiver when appropriate.

Finally, the substitute bill directs the UTC to study incident and accidents related to passenger-carrying vehicles, and requires the UTC to provide annual reports and recommendations to the Legislature.

Substitute Bill Compared to Original Bill:

The substitute bill reduces the minimum insurance coverage that was required by the original bill, and it eliminates the requirement that mandatory liability insurance cover an employee's loss of income or career.

The substitute bill removes a requirement that railroads retain operational records of passenger-carrying vehicles that contract with the railroad. Additionally, the substitute bill alters the process through which complaints are handled among the operator, the railroad company, and the UTC. The substitute bill also removes a provision that allowed the UTC to jointly sanction the railroad company and the operator of a passenger-carrying vehicle.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute 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) These vehicles are most often used late at night, in remote areas. Drivers have to be alert, and safety standards are important. The fact that when railroads contract out the operation of passenger-carrying vehicles, different standards apply needs to be fixed.

This bipartisan legislation is a step in the right direction, ensuring these vehicles meet reasonable safety standards. The safety of these vehicles has declined over the last several years, as the operations have been contracted out to third parties. A lot of these drivers are not trained as well as they used to be. Washington can put into place a reasonable set of guidelines and standards to ensure that employees are protected. This bill ensures that those responsible are held accountable for their actions. It is a step in the right direction toward having proper safeguards established. This bill allows railroad employees and families to take comfort knowing that the precautions are being taken.

The railroad environment is extraordinarily dangerous, and there are a lot of people who have suffered injuries and death as a result. Subcontracted van companies have gone through bankruptcy and have violated hours of service laws. There are a lot of problems with these transporters, and they are being regulated less seriously than airport transporters. Railroad workers feel that the most dangerous aspect of their jobs is riding in these passenger-carrying vehicles. The operators have high driver turnover, exercise poor screening and training, and do not oversee their drivers' skills. There is also a problem of uninsured motorist coverage. This bill will help make things a little bit safer for members of this community.

The UTC regulates some kinds of passenger-carrying vehicles, but this bill allows loopholes to be closed. The original bill had some issues from the perspective of the UTC, but they can be fixed in a substitute bill.

(Opposed) Railroads take seriously their safety obligations, both for their employees and the public. Railroads already impose insurance, driver, vehicle, and operator standards. In considering short-line railroads, one size does not fit all, and these requirements are unwarranted.

Persons Testifying: (In support) Representative Stanford, prime sponsor; Mike Elliott and Shahrain Allen, Brotherhood of Locomotive Engineers and Trainmen; Laurie Kenny; George Thornton, Thornton Mostul, PLLC; Robert Hill, Railroad Workers United; Herb Krohn and Jourdan Marshall, United Transportation Union; and Ann Rendahl, Utilities and Transportation Commission.

(Opposed) Bill Stauffacher, Burlington Northern Santa Fe Railway; and Eric Johnson, Washington Public Ports Association and Port of Pend Oreille.

Persons Signed In To Testify But Not Testifying: None.