

HOUSE BILL REPORT

SHB 2152

As Passed House:
February 7, 2014

Title: An act relating to industrial insurance requirements and options for owners and lessees of for hire vehicles, limousines, and taxicabs.

Brief Description: Addressing industrial insurance requirements and options for owners and lessees of for hire vehicles, limousines, and taxicabs.

Sponsors: House Committee on Labor & Workforce Development (originally sponsored by Representatives Habib, Sells, Hunter, Fitzgibbon, Ryu, Reykdal, Orwall, Gregerson, Riccelli and Pike).

Brief History:

Committee Activity:

Labor & Workforce Development: 1/16/14, 1/24/14 [DPS].

Floor Activity:

Passed House: 2/7/14, 93-1.

Brief Summary of Substitute Bill

- Exempts operators of for-hire-vehicles, limousines, and taxicabs who own or lease the vehicle from mandatory industrial insurance, and allows elective coverage.

HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Sells, Chair; Reykdal, Vice Chair; Manweller, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Christian, Green, G. Hunt, Moeller and Ormsby.

Staff: Joan Elgee (786-7106).

Background:

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.

Most workers in the state are covered by mandatory industrial insurance. Independent contractors who meet certain tests, however, are not covered. Whether or not a worker is an independent contractor is established by a case-by-case determination. Elective coverage is available for workers who are not mandatorily covered.

for-hire vehicle businesses must obtain a certificate for each vehicle from the Department of Licensing (DOL). A for-hire vehicle is a vehicle used to transport people for compensation and includes taxicabs. Businesses must also obtain a permit, except for taxicab businesses licensed by a city, county, or port district. In addition to licensing, local jurisdictions may regulate rates charged for services and otherwise regulate taxicabs. At least one jurisdiction (Seattle) regulates lease rates. Limousine carriers must obtain a license from the DOL and a certificate for each vehicle and limousine drivers (chauffeurs) must meet certain criteria.

In 2011 legislation was enacted addressing industrial insurance for operators of for-hire vehicles, limousines, and taxicabs regulated by local jurisdictions. All operators, including owner operators of for-hire vehicles, limousines, and locally regulated taxicabs are covered and the owner of the vehicle is responsible for the premiums. Under a Department of Labor and Industries (L&I) rule, owners may report premiums on a per vehicle, per driver, or actual hours basis. Vehicle owners are eligible for inclusion in a retrospective rating (retro) program. (The retro program allows employers or a group of employers to assume a portion of industrial insurance risk and receive premium refunds or be assessed additional premiums based on claim losses.) The legislation also authorized the L&I to appoint an advisory panel to assist the L&I with controlling costs related to the self-monitoring of claims.

If premiums are not paid, certain business licenses and vehicle certificates are suspended or revoked. Failure to produce evidence of payment of the premium on demand of a law enforcement officer is a civil infraction for the owner and operator. The legislation also specifically addressed locally regulated taxicabs. Local jurisdictions setting rates for taxicab services must adjust rates to accommodate changes in the cost of industrial insurance or in other industry-wide costs. Owners of locally regulated taxicabs who lease the vehicle must make a reasonable effort to train drivers in vehicle operation and safety, and to monitor compliance, including by cameras.

Summary of Substitute Bill:

Operators of for-hire vehicles, limousines, and taxicabs who own or lease the vehicle are exempt from mandatory industrial insurance, but may elect coverage. Provisions relating to mandatory coverage and penalties for failure to pay premiums are repealed. The authority for the L&I to have an advisory panel is retained but the reference to controlling costs is deleted. Lessees, in addition to owners, (lessees and owners) are eligible for inclusion in a retro program.

Local jurisdictions setting rates for taxicab services must adjust rates to accommodate increases or decreases, rather than changes, in the cost of industrial insurance. The reference to "other industry-wide costs" is removed. In addition, local jurisdictions that regulate lease rates must also adjust rates to accommodate increases or decreases in the cost of industrial insurance. Changes in lease rates take effect upon entry into a new lease. Both rates for

taxicab services and lease rates must be adjusted by September 1, 2014, and at least every two years thereafter.

Appropriation: None.

Fiscal Note: Available.

Effective Date: 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 attempts to remedy an unintended consequence of otherwise good legislation. In no other industry do business owners have to cover themselves. Covering taxi business owners does not make sense because industrial insurance protects one from being sued, but why would a person sue themselves? Taxi business owners should be treated like all other businesses. They are considered independent contractors by the state except for industrial insurance. This bill would let drivers make a choice.

The taxi business is important to tourism and to people with disabilities. Many drivers are new Americans. The margin for drivers is very slim and drivers had a net wage decrease as a result of Engrossed Substitute House Bill 1367. It costs \$153 per day to run a taxi, not including the cost of gas. Owners pay \$2,100 per year for industrial insurance. The cost of vehicle and industrial insurance for one driver is \$9,000. It is a hardship on families to pay for industrial insurance. Drivers are in direct competition with app-based companies who are not paying for industrial insurance. Failure to pay means licenses are lost.

There is overlap between the costs covered by vehicle, health, and industrial insurance. Industrial insurance is unnecessary. Vehicle insurance will pay for wage loss. Drivers can't afford health insurance and the Affordable Care Act penalty may need to be paid. Driving is less risky than working at a tattoo parlor or a convenience store.

Substitute House Bill 1367 was shoved down our throats. Substitute House Bill 1367 was passed so dispatch companies, who were being audited, could avoid further responsibility for claims.

The bill is being worked on to focus on the owners.

(Opposed) The industry did not want to be covered seven years ago, but the L&I wanted to hold someone responsible and the legislative committee said drivers deserve coverage. People were getting shot and there were \$2 to \$3.5 million in claims costs per year. Everyone in the industry works so coverage was made mandatory, a brilliant package deal.

Industrial insurance is needed. Driving is very dangerous as passengers can be drunk or carry guns. Industrial insurance has helped drivers who have been in accidents and their families.

Many drivers will not purchase Personal Injury Protection policies and it is more expensive than industrial insurance. The Affordable Care Act will not take care of all issues.

Persons Testifying: (In support) Representative Habib, prime sponsor; Dawn Gearhart and Wessan Singh, Teamsters Local 117; Wessen Datye, Orange Cab; Michael Judd; Samatar Guled, for-hire Association; and Parminder Cheema, Western Washington Taxicab Operator's Association.

(Opposed) Chris Van Dyk, Gefahun Adare, and Adane Tedle, Green Cab; Steve Salins, Shuttle Express; and Shannon Stewart, Clark County Cab Company and Vancouver Cab Company.

Persons Signed In To Testify But Not Testifying: None.