

HOUSE BILL REPORT

ESHB 1808

As Passed House:
March 10, 2015

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

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

Sponsors: House Committee on Transportation (originally sponsored by Representatives Stanford, Manweller, Blake, Orcutt, Ryu, Zeiger, Moscoso, Harris, Appleton, Wilcox, Takko, Haler, Pollet, Kochmar, Ormsby, Holy, Vick, Fey, Sells, Dunshee, Hayes, Farrell, S. Hunt, Reykdal and Van De Wege).

Brief History:

Committee Activity:

Transportation: 2/9/15, 2/24/15 [DPS].

Floor Activity:

Passed House: 3/10/15, 84-14.

Brief Summary of Engrossed Substitute Bill

- Establishes the Washington Utilities and Transportation Commission's (UTC) regulatory authority over certain vehicles used to provide transportation to railroad employees.
- Delegates rule-making authority to the UTC regarding certain safety and operational standards, including minimum insurance requirements.
- Requires the UTC to compile data regarding railroad employee transportation.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 21 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Bergquist, Harmsworth, Hayes, Kochmar, McBride, Moeller, Morris, Pike, Riccelli, Rodne, Sells, Takko, Tarleton, Wilson, Young and Zeiger.

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

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.

Minority Report: Without recommendation. Signed by 1 member: Representative Ortiz-Self.

Staff: Andrew Russell (786-7143).

Background:

The Washington Utilities and Transportation Commission (UTC) regulates certain aspects of railroad operations in the state, including the use of passenger-carrying vehicles for railroad employees. "Passenger-carrying vehicles" are defined as "buses and trucks owned, operated and maintained by a railroad company which transports railroad employees" as passengers in the vehicle. In regulating such vehicles, the UTC has adopted rules regarding equipment requirements and operational standards. The equipment requirements include provisions relating to the exhaust and steering systems, rear-view mirrors, emergency equipment, fire extinguishers, and first-aid kits. Additionally, the operational standards include provisions regarding the minimum age of the driver, hours of service limits, safety practices in crossing rail lines, the loading of passengers, and limitations on carrying dangerous materials. Finally, the UTC is authorized to inspect any passenger-carrying vehicle to verify that it is complying with applicable requirements.

Summary of Engrossed Substitute Bill:

The UTC has regulatory authority over "contract crew hauling vehicles," which are defined as vehicles, regardless of seating capacity, that are used primarily to provide railroad crew transportation for a railroad company. The UTC is directed to adopt rules regarding these vehicles, including the safety of equipment, operations, and passengers. The UTC must also require contract crew hauling vehicles to carry minimum insurance levels: bodily injury and property damage liability coverage of \$1.5 million and uninsured and underinsured motorist coverage of \$5 million. Notices must be posted in contract crew hauling vehicles advising passengers of their rights and ability to submit safety complaints to the UTC. The UTC may inspect any contract crew hauling vehicle, and it must investigate any safety complaints. Additionally, the UTC is empowered to enforce these requirements, including through imposing monetary penalties of up to \$1,000 for each violation.

Carriers that own, lease, operate, and maintain contract crew hauling vehicles must retain operational records for at least three years. These records must include accident reports, maintenance and service records, driver and passenger logs, and records of passenger complaints.

A person is disqualified to serve as a driver of a contract crew hauling vehicle if his or her driver's license is suspended or revoked two or more times within a three-year period. This disqualification must last for two years from the most recent suspension or revocation.

The UTC is required to develop an inspection program for contract crew hauling vehicles, including periodic inspections of vehicles and review of operational practices.

The UTC must compile data regarding safety complaints, accidents, regulatory violations, and corrective action relating to contract crew hauling vehicles and passenger-carrying

vehicles. Additionally, railroad companies providing contract crew hauling vehicles must provide data regarding complaints and accidents upon request from the UTC.

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 is a critical safety issue—workers should not have to fear for their lives when they are moving from one job location to another. The UTC has been involved in working on this bill, incorporating what's been learned in recent reports from the UTC. This bill was moved off the floor in previous years, 98 to zero.

There have been a number of accidents and horrific tragedies involving these vehicles. The companies that provide this transport are marginal and operating in dangerous conditions. This legislation is designed to come up with some answers and force a higher standard of care from the operators.

In 1977 when the original legislation was passed, these vans were owned and operated by the rail carriers. In recent decades, these operations have been outsourced to private contractors who are not covered by the 1977 law. This legislation would apply the same standards to these vehicles, regardless of who is operating them, and address long-standing safety issues. It is common knowledge that the most dangerous aspect of railroad jobs is riding in these vans. The turnover rate for drivers is high, the screening, training, and oversight is poor. These are operated in rural areas, through dangerous weather conditions. There have been numerous incidents involving these vehicles, including the recent incident in Kelso. Passage of this legislation ensures that crews will return safely to their families and protects our communities and drivers.

This bill addresses five main points: driver qualifications, equipment safety, safety of operations, safety of passengers, and adequate insurance requirements. These are all reasonable things to ask for. The quality and safety of these vehicles have dropped. These drivers have no training, they are not union members, and the vans are poorly maintained. Please make sure that the guys who are working have safety. Many of these vehicles are broken down and worn out, and the company does not replace them. There are also problems with the drivers. Employees are putting their lives at risk every time they get into these vans.

(In support with amendment(s)) The UTC supports the legislation, with a few technical changes.

(Opposed) The minimum insurance requirements in this bill are a significant increase from those required in any other state. These requirements may affect the economic viability of the transportation provider and implicate other insurance funds and federal worker's compensation obligations. The current state requirements in place are adequate, and this bill

would put a costly burden on providers. The insurance requirements of this bill would increase costs by 300 percent. This legislation singles out only contract railroad crew hauling providers and not any other kinds of transportation. Federal requirements do not mandate any form of uninsured or underinsured coverage. Only a handful of states even require this coverage and the coverage is significantly lower. Insurance coverage that meets the requirements of this bill is very hard to get.

Persons Testifying: (In support) Representative Stanford, prime sponsor; George Thornton, Herb Krohn, John Christianson, and Gary Howell, International Association of Sheet Metal, Air, Rail and Transportation Workers—Transportation Division; Mike Elliott, Brotherhood of Locomotive Engineers and Trainmen; Laurie Kenny; Brian Kennedy; and Patricia Holm, League of Women Voters.

(In support with amendment(s)) Jason Lewis, Utilities and Transportation Commission.

(Opposed) Bill Stauffacher, Burlington Northern Santa Fe Railroad; and Lester Skolowski, Professional Transportation, Inc.

Persons Signed In To Testify But Not Testifying: None.