

FINAL BILL REPORT

ESHB 1105

C 333 L 17
Synopsis as Enacted

Brief Description: Concerning railroad crew transportation.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Stanford, Orcutt, Clibborn, Stambaugh, Hayes, Stonier, Koster, Holy, Ryu, Ormsby, Fey, Wylie, Dolan, Sells, Muri, Haler, Goodman, Doglio, Hudgins, Gregerson, Barkis, Kilduff, Santos, Tarleton, Pollet, Farrell and Riccelli).

House Committee on Transportation
Senate Committee on Transportation

Background:

General Regulatory Authority.

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 limited to buses and trucks owned, operated, and maintained by a railroad company that transports railroad employees as passengers in the vehicle, other than in the cab of these vehicles, which are designed primarily for operation on roads that may or may not be equipped with retractable flanged wheels for operation on railroad tracks. The vehicles used by independent carriers with which railroads may contract to provide crew transportation are excluded from this definition.

In regulating passenger-carrying 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. 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. The UTC is authorized to inspect any passenger-carrying vehicle to verify that it is complying with applicable requirements.

More broadly, federal regulations for commercial vehicles apply to vehicles with a seating capacity of eight or more passengers (excluding the driver), which must comply with Federal Motor Carrier Safety Administration requirements for safety compliance reviews. Vehicles

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.

used by charter companies with which railroads contract that have seating capacity for fewer than seven passengers (excluding the driver) are not included in compliance reviews conducted by the UTC.

The UTC does not have the authority to regulate the use of vehicles with a seating capacity for fewer than seven passengers that are used by independent carriers with which railroads contract to provide rail crew transportation.

Insurance Coverage.

Any contract carrier vehicle with a seating capacity for seven or more passengers is regulated under UTC rules for passenger carrier charters. These vehicles are required by the UTC to have injury and property damage insurance or a surety bond with a minimum limit of \$1.5 million combined single coverage for vehicles with a passenger seating capacity of 15 or fewer, and of \$5 million combined single coverage for vehicles with a passenger seating capacity of 16 or greater. These minimum limit requirements correspond to federal requirements for commercial vehicles.

Summary:

Regulatory Authority over Contract Crew Transportation Vehicles.

The UTC has regulatory authority over "contract crew transportation vehicles," which are defined as motor vehicles designed to transport 15 or fewer passengers, including the driver, that are used primarily to provide railroad crew transportation for a railroad company and are owned, leased, operated, or maintained by a person contracting with a railroad company or its agents, contractors, subcontractors, vendors, subvendors, secondary vendors, or subcarriers. The UTC is directed to regulate persons providing contract railroad crew transportation and every contract crew transportation vehicle with respect to driver qualifications, equipment safety, drug testing requirements, and record retention. The rules must be consistent with the manner in which the UTC regulates passenger charter and excursion carriers and auto transportation companies, as well as with Federal Motor Carrier Safety Administration regulations.

The definition of "passenger-carrying vehicle" is modified to include vans and cars used by a railroad company primarily to transport railroad employees.

The UTC must require entities providing contract railroad crew transportation to verify that all drivers of contract crew transportation vehicles successfully complete at least eight hours of UTC-approved safety training, which must include information on passenger safety awareness, railyard safety, grade crossing safety, load securement, and distracted and fatigued driving.

The UTC is required to mandate the form and posting of adequate notices in a conspicuous location in all contract crew transportation vehicles that advise railroad employee passengers of their rights, the opportunity to submit safety complaints, and the complaint process, and that provide contact information for the UTC.

Insurance Coverage.

The UTC must require contract crew transportation vehicles to maintain the following minimum insurance or financial responsibility coverage levels: bodily injury and property damage combined single-limit liability coverage of \$5 million; and uninsured and underinsured motorist coverage of \$1 million. Insurance requirements may be satisfied by a third party operating the contract crew transportation vehicle (so long as the person operating the vehicle names the third party as an additional insured or named insured), the party operating the contract crew transportation vehicle, or the railroad company. Irrespective of the party that obtains the required insurance, proof of insurance coverage must be provided to the UTC by the person contracting with the railroad company.

Enforcement.

The UTC must develop an inspection program for contract crew transportation vehicles that includes periodic inspections of each vehicle, as well as a review of operational practices. The UTC is permitted to inspect any passenger-carrying vehicle or contract crew transportation vehicle to enforce rules and orders. The UTC may obtain assistance in these inspections from the Washington State Patrol.

The UTC is required to investigate safety complaints related to contract crew transportation and to take enforcement action as necessary. The UTC may impose monetary penalties of up to \$1,000 for each violation. If a person is determined to have committed serious or repeat violations, the UTC must suspend, revoke, or cancel the UTC certificate required to operate vehicles.

The UTC may suspend or revoke a contract crew transportation permit based on a complaint made by an interested party, or based on the UTC's own motion, after notice and opportunity for hearing, when the commission finds that any person owning, leasing, operating, or maintaining contract crew transportation vehicles has violated a state law or rule that applies to contract railroad crew transportation, or when the company or its agent has been found by a court or government agency to have violated a state or federal law.

A person is disqualified to serve as a driver of a contract crew transportation vehicle for three years if: (1) the person is convicted of, or found to have committed, two or more traffic violations that result in suspension or revocation of the person's driver's license within a three year period, for a reason other than the non-payment of fines; or (2) the person is found guilty of, or is found to have committed, any drug or alcohol-related traffic offense, using a vehicle to commit a felony, leaving the scene of an accident, prohibited passing of another vehicle, a railroad-highway grade crossing offense, or driving with a suspended, revoked, or canceled license. A driver who has been convicted of or found to have committed a traffic violation that is grounds for disqualification to serve as a driver of a contract crew transportation vehicle must report this conviction or violation to the contract crew transportation vehicle carrier within 10 days.

Information Collection and Reporting.

The UTC must compile data regarding safety complaints, accidents, regulatory violations and fines, and corrective actions taken relating to contract crew transportation vehicles and passenger-carrying vehicles. At the request of the UTC, railroad companies and any person that owns or leases, operates, or maintains contract crew transportation vehicles must provide data regarding complaints and accidents, including location, time of day, visibility, a description of the event, whether any property damage or personal injuries occurred, and any corrective action taken by the railroad company, the person operating the contract crew transportation vehicle, or the UTC. The UTC must make this data available on request.

Information included in contract crew transportation vehicle safety complaints that identifies the employee who submitted the complaint is exempted from public inspection and copying pursuant to the Public Records Act.

Votes on Final Passage:

House	97	0	
Senate	46	2	(Senate amended)
House	96	0	(House concurred)

Effective: July 23, 2017