

HOUSE BILL REPORT

SSB 6182

As Reported by House Committee On:
Civil Rights & Judiciary

Title: An act relating to closed captioning on televisions in places of public accommodation.

Brief Description: Concerning closed captioning on televisions in places of public accommodation.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Padden, Becker, Stanford, Wilson, C. and Dhingra).

Brief History:

Committee Activity:

Civil Rights & Judiciary: 2/25/20, 2/28/20 [DPA].

**Brief Summary of Substitute Bill
(As Amended by Committee)**

- Requires closed captioning to be activated on televisions in places of public accommodation with limited exceptions.
- Subjects an initial civil fine of up to \$75 for each violation and \$150 for subsequent violations.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass as amended. Signed by 15 members: Representatives Kilduff, Chair; Thai, Vice Chair; Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Goodman, Graham, Hansen, Kirby, Klippert, Orwall, Peterson, Rude, Valdez, Walen and Ybarra.

Staff: Ingrid Lewis (786-7289).

Background:

Closed Captioning on Television.

Closed captioning is an assistive technology that allows persons with hearing disabilities to access television programming. Closed captioning displays the audio portion of

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programming as text superimposed over the video. Federal law requires video programming distributors to close caption television programs, and the Federal Communications Commission rules for closed captioning ensure that viewers who are deaf and hard of hearing have full access to programming, address captioning quality, and provide guidance to video programming distributors and programmers. The rules apply to all television programming with captions, requiring that captions are accurate, synchronous, complete, and properly placed. There are two categories of exemptions from federal closed captioning rules:

- self-implementing: includes public service announcements shorter than 10 minutes and not paid for with federal dollars, programming shown from 2 a.m. to 6 a.m., primarily textual programming, and locally produced non-news programming with no repeat value; and
- economically burdensome: self-petitions when compliance would be economically burdensome.

Washington Law Against Discrimination.

Washington's Law Against Discrimination (WLAD) establishes that it is a civil right to be free from discrimination based on race, color, creed, national origin, sexual orientation, sex, veteran or military status, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal. This right applies to employment; places of public resort, accommodation, or amusement; commerce; and real estate, credit, and insurance transactions. Places of public accommodation generally include restaurants, hotels, motels, inns, stores, markets, shopping malls, theaters, cinemas, concert halls, arenas, parks, fairs, arcades, libraries, schools, government offices, and hospitals.

The Washington State Human Rights Commission (HRC) administers and enforces the WLAD. A person alleging unfair practices in violation of this law may file a complaint with the HRC or alternately file a civil suit in superior court. If a complaint is filed with the HRC and the HRC finds that there is reasonable cause to believe that discrimination has occurred, it must first try to eliminate the unfair practice via conference and conciliation. If this process fails, the matter will be referred to an administrative law judge (ALJ). If the ALJ finds in favor of the complainant, relief may include an order to cease and desist, an order to rehire or promote, damages, or other action that would effectuate the purposes of the WLAD (except that damages for humiliation and mental suffering may not exceed \$20,000). Either party or the HRC may appeal the ALJ's decision in superior court.

Summary of Amended Bill:

Any person that owns or manages a place of public accommodation with a closed-captioned television in a public area must activate the closed-captioning option. Certain exceptions apply for televisions that are technically incapable of displaying closed captioning and places of accommodation that are exempt from the requirement under state or federal law. In public areas with multiple televisions, up to 50 percent of televisions may be exempt from displaying closed captioning, provided that the exempt televisions clearly display that they do not have volume or are on mute.

There is no requirement for the closed captions to be in a language other than the language of the program or a default language when the television only displays one language.

If multiple televisions are displayed for sale in a public area, at least one must display the closed caption feature.

A violation of the requirement is a violation of the Washington Law Against Discrimination. A person shall be subject to an initial civil fine of up to \$75 for each violation for failing to comply with the closed captioning requirement. Written notice of the violation must be provided, and a first-time violator must be given an opportunity to cure the violation prior to being subject to a fine. If the person demonstrates compliance with the requirement within 30 days of delivery of the notice, the initial violation must be dismissed. Subsequent violations shall result in a fine of up to \$150.

The Human Rights Commission must prepare an online educational pamphlet to advise employers and employees of their duties and requirements, and employers must provide employee training using the pamphlet.

Amended Bill Compared to Substitute Bill:

The striking amendment requires that written notice of the violation be provided and a first-time violator be given an opportunity to cure the violation prior to being subject to a fine. An initial violation must be dismissed if the person demonstrates compliance with the requirement within 30 days of delivery of the notice.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended 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) This bill would allow people with hearing loss and people who are deaf to have equal access to television information in public places. People with hearing loss represent 20 percent of the population. In addition, studies have shown that captioning helps those learning English as a second language, as well as people of all ages who are learning to read.

It is impossible for people with hearing loss or who are deaf to understand information conveyed on televisions without captions in stores, hotels, or restaurants. People with hearing loss should not have ask to have captioning activated. It is an extra step to have the same access as people with hearing. This accommodation has no cost.

When a person who is hearing impaired is buying a television, they should be able to see captions activated on all the models so they know what they are purchasing.

The availability of closed captioning is especially important in emergency situations. In cases of severe weather or other events where there are instructions to evacuate or shelter in place, captioning is essential. Those who do not have access to critical news could be adversely affected without closed captioning availability.

There are some cities that have enacted similar ordinances, but this accommodation should apply statewide.

The business and hospitality industries have been consulted to make sure that this is a policy that will work.

Court reporters use their skills and technology to provide closed captioning services, and it is rewarding work. The service allows everyone to fully engage and participate in the community.

(Opposed) None.

(Other) If a retailer inadvertently does not have closed captioning on when the law is in effect, they should get a warning before they are issued a citation.

It would be helpful for multi-location retailers if there was a statewide standard.

The bill has an emphasis on education and is flexible for businesses with multiple televisions.

Persons Testifying: (In support) Senator Padden, prime sponsor; Cynthia Stewart, Hearing Loss Association of Washington; Dean Olson; Elizabeth Harvey, Washington Court Reporters Association; Karen Atwood, Washington State Association of the Deaf; and Karen Philo-House.

(Other) Mark Johnson, Washington Retail Association; and Katie Doyle, Washington Hospitality Association.

Persons Signed In To Testify But Not Testifying: None.