

SENATE BILL REPORT

SB 6182

As Reported by Senate Committee On:
Law & Justice, January 23, 2020

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: Senators Padden, Becker, Stanford, Wilson, C. and Dhingra.

Brief History:

Committee Activity: Law & Justice: 1/16/20, 1/23/20 [DPS].

Brief Summary of First Substitute Bill

- Requires places of public accommodation with a closed captioned television to activate the closed captioning.
- Provides limited exemptions in locations with multiple TV's for sales and hospitality.
- Provides guidance for the display of language options.
- Requires the Human Rights Commission to develop training.
- Subjects violators to a fine up to \$75 for each violation, and for subsequent violations up to \$150.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6182 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; Holy, Kuderer, Salomon and Wilson, L..

Staff: Tim Ford (786-7423)

Background: The Washington State Law Against Discrimination (WLAD), first adopted in 1949, establishes it is a civil right to be free from discrimination based on race, creed, color,

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national origin, families with children, sex; marital status, age, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a disabled person. This right applies to employment; places of public resort, accommodation, assemblage, or amusement; commerce; and real estate, credit, and insurance transactions.

Closed captioned television programming provides a written text of audio dialog displayed on the television screen. Congress requires video programming distributors—cable operators, broadcasters, satellite distributors and other multi-channel video programming distributors—to close caption their TV programs. The Federal Communications Commission (FCC) rules for TV closed captioning ensure 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 captions be:

- accurate—captions must match the spoken words in the dialogue and convey background noises and other sounds to the fullest extent possible;
- synchronous—captions must coincide with their corresponding spoken words and sounds to the greatest extent possible and must be displayed on the screen at a speed that can be read by viewers.
- complete—captions must run from the beginning to the end of the program to the fullest extent possible; and
- properly placed—captions should not block other important visual content on the screen, overlap one another or run off the edge of the video screen.

Currently there are two categories of exemptions from closed captioning rules, self-implementing and economically burdensome:

1. Self-implementing exemptions include public service announcements shorter than 10 minutes and not paid for with federal dollars, programming shown from 2:00 a.m. to 6:00 a.m., and programming primarily textual. There is also an exemption for locally produced non-news programming with no repeat value.
2. The FCC has established procedures for petitioning for an exemption from the closed captioning rules when compliance would be economically burdensome—available on the FCC's website.

Summary of Bill (First Substitute): Any person owning or managing a place of public accommodation with a closed captioned television in a public area must activate the closed captioned programming. Exemptions apply for television sets that are incapable of displaying closed captioning or where the place of public accommodation is otherwise exempt under state or federal law. Limited exemptions are authorized for up to 50 percent of TV's in public areas where the TV's clearly display that they don't have volume or are on mute. If multiple TV's are displayed for sale, at least one must display closed captioned programming. Language option displays are limited to the language of the audio program, or the default option where a TV displays only one language. Violations are subject to fines up to \$75 and up to \$150 for subsequent violations.

A violation of this law is a violation of WLAD. The Human Rights Commission must prepare an educational pamphlet advising employers and employees of their duty and liability. The pamphlet should be available online. Employers must provide employees with training on this law.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Exempts in a public area with multiple televisions, up to 50 percent of on-premises televisions from displaying closed captioning. The exempted televisions must clearly display that they do not have volume or are on mute.
- Requires that if multiple television models are displayed together for sale in a public area at least one closed-captioned television must be available for viewing. This does not require one TV for each model to display closed captioned programming.
- Refrains from requiring the closed-captioned transcript or dialog to be in any language other than the language of the audio programming, or a default language where a television receiver only displays one language.
- Requires the human rights commission to prepare an educational pamphlet advising employers and employees of their duty and liability under this section. The pamphlet should be made available online. Employers must provide employees with training on this section using the pamphlet.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: If you are hearing impaired and closed captioning is not activated on the television, you do not know what is going on. A couple of cities in the state have adopted local ordinances along these lines, so I think it is a positive thing for hearing impaired folks, and something we ought to do.

Hearing loss is often misunderstood. It is assumed if you just turn up the volume people with hearing loss can deal with it. But in reality, turning up the volume also increases distortion. In public places it is not possible to do that. Twenty percent of the population has hearing loss, and it is a higher rate for those of us who are older. A lot of television programming is voiceover, so you do not see the face and you cannot lipread.

Deaf people do travel through restaurants, sports bars, to the movie theater. We should be able to have open captioning wherever we go, anywhere, at any time. There are movie theaters providing open captions, but on Sunday afternoon. Why are we limited to that? We want it to be accessible any time, anywhere, any day. We want to be able to have the same rights as anybody has in the state.

CON: We are very sensitive to people with disabilities in our stores. We want to make them customers. We sell a lot of TV sets in stores across the state. It would be very challenging for them all to have closed captioning up all the time. Especially during a busy holiday rush season, like black Friday, TVs are purchased and sold, and out the door. If somebody says I would like to see closed captioning on that TV the sales associate is going to do everything

they can to show them the closed captioning features to try to make that sale. It is just a little bit of an overreach for the government to require all retailers to have closed captioning on all of their TV sets all the time.

OTHER: We would love to see an element included for publication. We are the front line for guests and staff, guests and customers, and we would love this transition to be smooth for everyone involved. We would also like to recognize not all TVs in public areas have the volume on, and so having exceptions in those situations would be extremely helpful as this is often common in bars and restaurants. We are open to exploring ideas on how to make this happen in situations where the TV is on mute.

Persons Testifying: PRO: Senator Mike Padden, Prime Sponsor; Cynthia Stewart, Hearing Loss Association—Washington; Jim House, Community Member Advocate; Karen Atwood, President, Washington State Association of the Deaf.

CON: Mark Johnson, Washington Retail Association.

OTHER: Katie Doyle, Washington Hospitality Association.

Persons Signed In To Testify But Not Testifying: No one.