

HOUSE BILL REPORT

HB 1706

As Reported by House Committee On:
Transportation

Title: An act relating to truck drivers ability to access restroom facilities.

Brief Description: Concerning truck drivers ability to access restroom facilities.

Sponsors: Representatives Sells, Ryu, Wicks, Berry, Valdez, Graham, Berg, Macri, Peterson, Senn, Shewmake, Orwall, Gregerson, Dolan, Fitzgibbon, Paul, Stonier, Davis, Riccelli, Santos, Taylor and Kloba.

Brief History:

Committee Activity:

Transportation: 1/17/22, 2/7/22 [DPS].

Brief Summary of Substitute Bill

- Requires port terminal operators to provide sufficient restrooms in appropriate locations for drayage drivers.
- Grants the departments of Health and Labor and Industries jurisdiction to enforce this restroom requirement.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 28 members: Representatives Fey, Chair; Wylie, 1st Vice Chair; Bronoske, 2nd Vice Chair; Ramos, 2nd Vice Chair; Barkis, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Berry, Chapman, Dent, Donaghy, Duerr, Entenman, Goehner, Griffey, Hackney, Klicker, Orcutt, Paul, Ramel, Riccelli, Slatter, Sutherland, Taylor, Valdez, Walsh and Wicks.

Staff: David Munnecke (786-7315).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

Restroom Requirements.

Under the Washington Industrial Safety and Health Act (WISHA), an employer must provide a workplace free from recognized hazards. The Department of Labor and Industries (L&I) administers WISHA. The L&I has adopted general health and safety standards, pursuant to WISHA, that apply to most industries, and has safety standards that apply only to specific industries, many of which include requirements regarding the provision of restroom facilities.

Port Districts.

Port districts are a type of special purpose district, and there are 75 port districts in Washington. Port districts can include harbors and marine transport, but can also include airports, railroads, and other facilities. Port districts are generally funded by property taxes, services fees, lease fees, and bonds, but they may also receive funding from the federal government and the state.

Marine cargo generally comes in three forms: containerized (cargo transported by container), bulk (cargo transported unpackaged, like grain or oil), and break bulk (cargo, such as a car or barrels, that is loaded individually, rather than in containers or in bulk). Most non-bulk cargo is transported by intermodal container. Such containers can be transferred between different modes of transportation—for example, from ship to rail—without removing the cargo from the container. Drayage trucks are generally diesel-fueled, heavy-duty trucks that transport containers and bulk freight between a port and intermodal rail facilities, distribution centers, and other locations near the port.

Summary of Substitute Bill:

Port Districts.

A terminal operator, which may or may not be the port district, must provide a sufficient number of restrooms for use by drayage truck operators in areas of the terminal that drayage truck operators typically access. These restrooms may include fixed bathrooms with flush toilets or portable chemical toilets. At least one restroom must be a private space that is both suitable for and dedicated to expressing breast milk.

A terminal operator complies with this restroom requirement if the terminal operator:

- allows drayage truck operators access to existing restrooms while the drayage truck operators are on port property, when access does not pose an obvious safety risk to the drayage truck operators and other workers in the area, is in areas where drayage truck operators typically have access, and does not violate terminal security requirements;
- provides additional restrooms at locations where there is the most need; and
- has a policy that allows drayage truck operators to leave their vehicles at reasonable

times and locations for purposes of accessing restrooms.

Enforcement.

The Department of Health (DOH) and the L&I are granted jurisdiction to enforce the bill. The DOH is allowed to issue a warning for a first violation of the section and a class 2 civil infraction for subsequent violations. Failure to comply with the bill is a violation of the WISHA.

The DOH and L&I may not take duplicate enforcement actions on violations arising from the same conduct.

Substitute Bill Compared to Original Bill:

The requirement that retail establishments allow the use of restrooms by common carriers making deliveries to the establishment, within certain parameters, is removed.

At least one restroom provided by the terminal operator is required to be a private space suitable for and dedicated to expressing breast milk.

The requirement that drayage truck operators have access to restrooms on port property is limited to areas that drayage truck operators typically have access to and to circumstances where such access does not violate terminal security requirements.

The L&I is provided with jurisdiction to enforce the bill, and that authority is removed from local health departments. The DOH is allowed to issue a warning for a first violation of the bill and a class 2 civil infraction for subsequent violations.

Failure to comply with the bill is a violation of the WISHA, and the DOH and L&I are prevented from taking duplicate enforcement actions on violations arising from the same conduct.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute 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) There is quite a wait for drayage truck operators at ports, of up to eight hours in some places, and this includes pregnant women. This bill seeks to solve that problem, but the portion related to retail establishments may not be needed.

No matter what level of trucking you're in, there is a problem in Washington. There are four portable toilets at the cellphone lot at Sea-Tac, but no port has that many for truckers. Ports are the only place where there are thousands of people but no restrooms for them. It's part of the reason there's a shortage of truckers.

It's a shame that this bill is needed, but it should cost taxpayers nothing.

This is a situation that has existed for a long time, and it is a problem in many locations. Time constraints can also make it difficult to stop on the road. This is common sense legislation.

This is a plea from truck drivers who are asking businesses to take care of the people that take care of them. There is currently a crisis with truck driver availability.

This bill represents a reasonable balance between the needs of the ports and the needs of the truckers.

(Opposed) None.

(Other) The L&I has requirements for employer/employee relationships. Where there is a controlling employer, there are also requirements. The L&I has developed language for this bill that fixes the current gap.

Retail establishments already allow drivers to use their restrooms. This bill is unnecessary for restaurants and other retail establishments because of the existing requirements on them.

The terminal operators operate most ports, and are comfortable with this bill, except that it needs to recognize the security requirements that are placed on ports.

Persons Testifying: (In support) Representative Mike Sells, prime sponsor; Ryan Johnson; Lewie Pugh, Owner-Operator Independent Drivers Association; Sheri Call, Washington Trucking Associations; and Sean Eagan, The Northwest Seaport Alliance.

(Other) Bruce Beckett, Washington Retail Association; Tammy Fellin; Samantha Louderback, Washington Hospitality Association; Scott Hazlegrove, Pacific Merchant Shipping Association; and Mike Ennis, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.