

# HOUSE BILL REPORT

## SB 5027

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### As Passed House - Amended:

April 5, 2021

**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, Salomon, Hunt, Lovelett, Stanford and Wilson, C..

### Brief History:

#### Committee Activity:

Civil Rights & Judiciary: 3/16/21, 3/19/21 [DPA].

#### Floor Activity:

Passed House: 4/5/21, 97-0.

### Brief Summary of Bill (As Amended By House)

- 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.

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## HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

**Majority Report:** Do pass as amended. Signed by 17 members: Representatives Hansen, Chair; Simmons, Vice Chair; Walsh, Ranking Minority Member; Gilday, Assistant Ranking Minority Member; Graham, Assistant Ranking Minority Member; Abbarno, Davis, Entenman, Goodman, Kirby, Klippert, Orwall, Peterson, Thai, Valdez, Walen and Ybarra.

**Staff:** Ingrid Lewis (786-7289).

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*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:**

### 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 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. Closed captioning is required to be in white text color with a black background and in a style and size that is readable to people with low vision. A place of public accommodation may deactivate closed captioning on a television receiver actively displaying text at the request of a vision impaired person. The deactivation of closed captioning is for the length of time the requestor is at the place of public accommodation. 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.

**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) People who have a hearing disability should be treated fairly. Closed captioning provides enhanced communication and participation in the community. Captioning ensures that people have access to critical information in times of emergency and can enjoy television programming. Captioning is also helpful for people who speak English as a second language, as written English is easily more understood over spoken

word.

It is challenging for anyone to understand what is being said in places of accommodation that are loud. The value of captioning is enjoyed by those who are not deaf or hard of hearing. Having captions turned on has no cost to a business.

Compliance is the first step to full accessibility. Local jurisdictions must be allowed to enact stronger protections. The fines imposed are modest, and the bill allows for a cure; if a business corrects the violation and provides captioning within 30 days, there is no fine. The Human Rights Commission will provide educational support.

(Opposed) None.

(Other) Setting a statewide standard that would preempt local ordinances would be helpful to small businesses that sell television sets.

**Persons Testifying:** (In support) Senator Padden, prime sponsor; Elizabeth Harvey, Washington Court Reporters Association; James Christianson Jr; Conrad Reynoldson; Cynthia Stewart, League of Women Voters of Washington; and Cindi Laws, Purple Mountain Advocates.

(Other) Mark Johnson, Washington Retail Association.

**Persons Signed In To Testify But Not Testifying:** None.