

SENATE BILL REPORT

SHB 1706

As Reported by Senate Committee On:
Transportation, February 17, 2022
Labor, Commerce & Tribal Affairs, February 24, 2022

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

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

Sponsors: House Committee on Transportation (originally sponsored by 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: Passed House: 2/13/22, 98-0.

Committee Activity: Transportation: 2/17/22 [w/oRec-LCTA].
Labor, Commerce & Tribal Affairs: 2/21/22, 2/24/22 [DPA].

Brief Summary of Amended Bill

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

SENATE COMMITTEE ON LABOR, COMMERCE & TRIBAL AFFAIRS

Majority Report: Do pass as amended.

Signed by Senators Keiser, Chair; Conway, Vice Chair, Labor; Stanford, Vice Chair, Commerce & Tribal Affairs; King, Ranking Member; Braun, Rivers, Robinson and Saldaña.

Staff: Susan Jones (786-7404)

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: Washington Industrial Safety and Health Act. 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. 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. Employers must generally provide bathrooms with the appropriate number of toilets for employees at every workplace, except mobile crews or work locations not normally attended by employees.

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 Amended Bill: Restroom Requirements for Terminal Operators. A terminal operator must provide a sufficient number of restrooms for use by drayage truck operators in areas of the terminal that drayage truck operators typically have access to, such as inside the gate and truck queuing lots. Restrooms may include fixed bathrooms with flush toilets or portable chemical toilets. At least one restroom must be a private space suitable for and dedicated to expressing breast milk.

A terminal operator is deemed in compliance with these requirements if the terminal operator:

- allows drayage truck operators access to existing restrooms while the drayage truck operators are on port property in areas of the terminal that drayage truck operators typically have access to and when access does not pose an obvious safety risk to the drayage truck operators and other workers in the area and does not violate federal terminal security requirements;
- when necessary, provides additional restrooms at locations where there is the most need after an assessment of the use and accessibility of existing restrooms and conducting a survey of drayage truck operators; and
- has a policy that allows drayage truck operators to leave their vehicles at reasonable times and locations for purposes of accessing restrooms.

Restrooms for drayage truck operators must be located in areas where access would not pose an obvious health or safety risk to the operators or other workers in the area.

Enforcement. The Departments of Health (DOH) and L&I have jurisdiction to enforce these requirements. DOH may issue a warning letter to the port terminal operator for a first violation, informing the port terminal operator of the requirements. A violation after receiving a warning letter is a class 2 civil infraction. Failure to comply with this section is a violation of WISHA. DOH and L&I may not take duplicate enforcement actions for violations arising from the same conduct.

Definitions. "Drayage truck operator" means the driver of any in-use on-road vehicle with a gross vehicle weight rating greater than 33,000 pounds operating on or transgressing through port or intermodal rail yard property for the purpose of loading, unloading, or transporting cargo, including containerized, bulk, or break-bulk goods.

"Terminal operator" means the business entity operating a marine terminal for loading and unloading cargo to and from marine vessels and includes the port if the port is directly operating the marine terminal in loading and unloading cargo to and from marine vessels.

EFFECT OF LABOR, COMMERCE & TRIBAL AFFAIRS COMMITTEE AMENDMENT(S):

- Restricts the limitation for restroom access for terminal security requirements to federal terminal security requirements.

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 Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The sponsor proactively reached out to the ports to make sure that the legislation is practical and implementable. Marine cargo terminals are complex operations with high speed equipment. They can be dangerous locations to work and operate. The bill strikes a nice balance between basic human dignity of access to restrooms while taking into account the security and operations of a busy cargo terminal.

There are many shippers and receivers that had no place for truck drivers to use the restrooms or didn't let them use the restrooms. Imagine waiting six to eight hours and you

had to use the restroom but weren't allowed to use them. This is a daily dilemma for truck drivers. Please allow this for shippers and receivers as well.

Truck drivers are the back bone of our economy keeping things moving 24/7 and 365. Seventy percent of freight over the last few years has been moved by truck drivers. This is a plea from truck drivers to offer the same accommodation that they would offer to a customer or visitor. More work should be done to broaden the bill.

OTHER: We are comfortable with the language of the bill. Marine terminal operators do currently provide extensive use of restrooms. However, safety and security issues means that not all restrooms can be made available to all visitors at the terminal. In comparison at Seatac, although you may visit Seatac, you are not able to enter all areas at Seatac and you can't leave your car in the driveway and go in to use the restroom.

Persons Testifying: PRO: Sean Eagan, The Northwest Seaport Alliance; Sheri Call, Washington Trucking Associations; Lewie Pugh, Owner-Operator Independent Drivers Association.

OTHER: Scott Hazlegrove, Pacific Merchant Shipping Association.

Persons Signed In To Testify But Not Testifying: OTHER: Tammy Fellin, Labor & Industries.