

# HOUSE BILL REPORT

## SHB 1843

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### As Passed House:

March 4, 2009

**Title:** An act relating to motor carrier regulation and compliance review.

**Brief Description:** Addressing motor carrier regulation and compliance review.

**Sponsors:** House Committee on Transportation (originally sponsored by Representatives Kagi, Rodne and Kenney; by request of Utilities & Transportation Commission and Washington State Patrol).

### Brief History:

#### Committee Activity:

Transportation: 2/11/09, 2/16/09 [DPS].

#### Floor Activity

Passed House: 3/4/09, 80-15.

### Brief Summary of Substitute Bill

- Requires vehicles regulated by the Utilities and Transportation Commission (UTC) to apply for U.S. Department of Transportation numbers and comply with rules adopted by the UTC.
- Makes a high-risk carrier liable for double the fine for repeat violations.
- Establishes a Washington State Patrol (WSP) penalty mitigation process for motor carriers.
- Establishes a WSP administrative hearing process.

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### HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 20 members: Representatives Clibborn, Chair; Lias, Vice Chair; Roach, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Campbell, Cox, Dickerson, Driscoll, Eddy, Finn, Johnson, Moeller, Rolfes, Simpson, Springer, Takko, Upthegrove, Wallace, Williams and Wood.

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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 a part of the legislation nor does it constitute a statement of legislative intent.*

**Minority Report:** Do not pass. Signed by 4 members: Representatives Armstrong, Herrera, Kristiansen and Shea.

**Staff:** Jerry Long (786-7306)

**Background:**

Substitute House Bill 2987 was enacted in the 2006 legislative session directing the Washington State Patrol (WSP) to develop recommendations for improving the safe operation of commercial motor vehicles on Washington's highways and roads. Certain motor carriers operate commercial motor vehicles solely within Washington (intrastate), while other motor carriers operate in multiple states (interstate). In 2007 Substitute House Bill 1304 (SHB 1304) was enacted implementing the recommendations of the work group that worked on the issues during the 2006 interim. The work group included the WSP, the Department of Licensing, Utilities and Transportation Commission (UTC), the Washington Trucking Association, the Washington Refuse and Recycling Association, the Attorney General's Office, and other motor carrier stakeholders.

The Federal Motor Carrier Safety Administration (FMCSA) regulates interstate motor carriers. The FMCSA and the WSP perform compliance reviews of interstate motor carriers. The FMCSA requires that interstate motor carriers have United States Department of Transportation (USDOT) numbers that enable the FMCSA and the WSP to maintain a safety rating on those carriers.

The recommendations included that intrastate motor carriers operating certain commercial vehicles with a gross weight over 26,001 pounds or carrying hazardous materials be required to apply for USDOT numbers. Motor carriers with commercial motor vehicles weighing between 16,001 and 26,000 pounds, unless exempt, must apply for a USDOT number by January 1, 2011. Presently, motor carriers regulated under the UTC are exempt from these requirements. These include private, nonprofit transportation providers, auto transportation companies, charter and excursion service carriers, solid waste haulers, and household goods carriers.

The WSP uses data-driven analysis to identify and prioritize for inspection and compliance reviews of interstate and intrastate motor carriers who have been identified as high-risk carriers. During their safety audits and compliance reviews there may be enforcement actions, including monetary fees and penalties which range from a \$250 re-inspection fee to a maximum penalty of \$11,000. Prior to the enactment of SHB 1304, the WSP was allowed to receive mitigation requests from motor carriers, which may have allowed the motor carriers to come into compliance and potentially reduced their penalties.

**Summary of Substitute Bill:**

Motor carriers that are regulated by the UTC are required to apply for a USDOT number by January 1, 2010. These carriers include private, non-profit transportation providers, auto transportation companies, charter and excursion service carriers, solid waste haulers, and household goods carriers. The bill clarifies that the UTC is responsible for the adoption and

enforcement of safety requirements operated by the UTC-regulated companies and that those companies must comply with the safety requirements adopted by the UTC.

The regulations enacted in 2007 will apply to the entities regulated by the UTC, which includes placing a USDOT number out of service for violating a UTC cease and desist order. The term "motor carrier" is changed to "applicant" in regard to USDOT numbers, since not all of the UTC-regulated industries are motor carriers as defined by the WSP and the FMCSA.

The bill clarifies that only carriers subject to highway inspections and compliance reviews by the WSP and not the UTC are required to pay a fee of \$16 for each motor vehicle base plated in the state.

A high-risk carrier is liable for double the amount of the penalty of a prior violation if the high-risk carrier repeats the same violation during a follow-up compliance review. Each repeat violation is a separate and distinct offense and, in the case of repeat continuing violations, each day's continuance is a separate and distinct violation.

The bill clarifies that the existing penalties for employers and drivers are based on each violation.

The bill establishes a mitigation process for a motor carrier who incurs a penalty, except that a high-risk carrier who incurs a penalty for a repeat violation may, upon written application, request that the WSP mitigate the penalty. The application for mitigation must be received by the WSP within 20 days of the receipt of the penalty notice. The WSP may decline to consider any application for mitigation.

The motor carrier has a right to an administrative hearing to contest the violation or the penalty imposed or both. Any request for an administrative hearing must be made in writing and be received by the WSP within 20 days after the later of the receipt of the notice imposing the penalty or disposition of a request for mitigation, or the right to a hearing is waived.

**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) Prior to the Legislature passing SHB 1304 in 2007, there were many issues regarding motor carrier safety and compliance with state and federal laws. There were several large motor carrier accidents and no way to remove from the roadways the companies who were not following regulations. The WSP and the UTC will use the safety data to identify the problem carriers earlier and work with those carriers to bring them into compliance. As a result, the changes will bring increased safety and accountability to the

motor carrier industry. In 2007 the carriers regulated by the UTC were not included, but the UTC has requested that their carriers also follow the same safety requirements that were put in place two years ago. This will enable the UTC to identify motor carriers that they regulate who do not follow motor carrier regulations. Both intrastate and interstate motor carriers are now treated equally and follow the same regulations. The mitigation process was not in the original bill even though it was standard practice prior to 2007. This bill puts that process back in place. This is a bill that the UTC worked on, along with the WSP and other stakeholders, to increase motor carrier safety.

(Opposed) None.

**Persons Testifying:** Representative Kagi, prime sponsor; Steven King, Utilities and Transportation Commission; Darrin Grondel, Washington State Patrol; Larry Pursley, Washington Trucking Association; and Gordon Walgren, Washington Refuse and Recycling Association.

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