

HOUSE BILL REPORT

HB 1986

As Reported by House Committee On: Transportation

Title: An act relating to allowing certain private transportation providers to use certain public transportation facilities.

Brief Description: Allowing certain private transportation providers to use certain public transportation facilities.

Sponsors: Representatives Clibborn, Eddy, McCune and Rodne.

Brief History:

Committee Activity:

Transportation: 2/23/11, 2/24/11 [DPS].

Brief Summary of Substitute Bill

- Authorizes the Washington State Department of Transportation (WSDOT) and local jurisdictions to allow certain private transportation provider vehicles to use high occupancy vehicle lanes and lanes reserved for public transportation.
- Requires transit agencies that receive state funding for park and ride lots to make reasonable accommodations for certain private transportation providers unless the facility is at or exceeds 90 percent capacity during off-peak hours.
- Requires the WSDOT and local authorities, when designing portions of roadways intended for the exclusive or preferential use of public transportation, to consider whether the design will safely accommodate certain private transportation provider vehicles.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 22 members: Representatives Clibborn, Chair; Billig, Vice Chair; Armstrong, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Angel, Asay, Eddy, Finn, Jinkins, Johnson, Klippert, Kristiansen, McCune, Moeller, Overstreet, Reykdal, Rivers, Rolfes, Shea, Takko, Upthegrove and Zeiger.

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: Without recommendation. Signed by 5 members: Representatives Liias, Vice Chair; Fitzgibbon, Ladenburg, Moscoso and Ryu.

Staff: David Munnecke (786-7315).

Background:

Lane Use and Restrictions.

For non-limited access facilities, the Washington State Department of Transportation (WSDOT) and local jurisdictions are authorized to reserve all or any portion of a highway or roadway for the exclusive or preferential use of public transportation vehicles or private vehicles carrying no fewer than a certain number of passengers (high occupancy vehicles or HOVs) when such limitation will increase the efficient utilization of the highway or will aid in the conservation of energy resources. Public transportation vehicles may use the HOV lanes regardless of the number of passengers actually in the vehicle, but all private vehicles must meet the HOV occupancy requirements.

For limited access facilities, the WSDOT and local jurisdictions are authorized to reserve all or any portion of a limited access facility for the exclusive or preferential use of public transportation vehicles, privately owned buses, or other private vehicles carrying the minimum number of specified passengers, when such limitation will increase the efficient utilization of the highway or will aid in the conservation of energy resources.

The WSDOT has adopted administrative rules regarding the use of the HOV lanes on certain limited access highways (interstate highways, state highways, and ramps). Those rules may be read to permit public transportation buses, private buses that have the capacity to carry at least 16 persons, and emergency vehicles to use the HOV lanes regardless of the number of passengers actually in the vehicle. A truck that weighs more than 10,000 pounds may not use the HOV lanes, regardless of how many persons occupy the truck.

Park and Ride Lots.

Various local transit agencies own and operate park and ride lots as part of the agencies' public transportation service, and they provide regularly scheduled service at the lots. Local transit agencies that receive state funding for a park and ride lot must enter into an agreement to make reasonable accommodation for use of that lot by auto transportation companies, such as aero-porters, and private special needs transportation providers that intend to provide or already provide regularly scheduled service at that lot. In exchange for making such accommodations, transit agencies may recover costs and fair market value from the private provider for use of the lot. Transit agencies do not have to make any accommodation if the lot is at or exceeds 90 percent capacity.

Summary of Substitute Bill:

Lane Use and Restrictions.

For both limited access and non-limited access facilities, the authority of the WSDOT and local jurisdictions is expanded to allow certain private transportation vehicles: auto

transportation company vehicles, such as aero-porter vehicles; charter carrier vehicles, except certain limousines as defined by Department of Licensing (DOL) rule; private special needs transportation provider vehicles; and private employer transportation service vehicles (collectively referred to as "specified private transportation vehicles") to use the HOV lanes and lanes reserved for public transportation. The term "private employer transportation service" is defined to mean regularly scheduled, fixed-route transportation service that is offered by an employer for the benefit of its employees.

Park and Ride Lots.

In addition to accommodating auto transportation companies and private special needs transportation providers, local transit agencies that receive state funding for a park and ride lot are required to make reasonable accommodation for use of that lot by charter carriers, except certain limousines as defined by the DOL rule, and private employer transportation services providers. For all specified private transportation vehicles, it is established that accommodation need not be made if the park and ride is at or exceeds 90 percent capacity during off-peak hours. The current provision allowing transit agencies to recover costs and fair market value for use of the lot is modified by allowing the transit agencies to recover actual costs and fair market value. It is clarified that the private transportation provider is responsible for paying the transit agency in full.

Miscellaneous.

When designing portions of a highway that are intended to be reserved for the exclusive or preferential use of public transportation vehicles, the WSDOT and local jurisdictions are required to consider whether the design will safely accommodate specified private transportation vehicles.

It is established that if any part of the act is found to conflict with a prescribed condition to receipt of federal funding, the conflicting portion is inoperable to the extent of the conflict and with respect to the agencies directly affected.

Substitute Bill Compared to Original Bill:

The provision allowing transit agencies to recover actual costs is modified to allow the transit agencies to recover actual costs and fair market value.

The provision allowing a private transportation provider to recover its costs by charging fees to the vehicle owners using a park and ride lot in order to access the private transportation provider's service is removed.

A definition for private transportation provider is added to the section regarding park and ride lots to match the definition provided in other sections of the bill.

Appropriation: None.

Fiscal Note: Requested on February 21, 2011.

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) The ability of private transportation providers to use park and rides is the focus of this bill. When a private operator tries to use a park and ride lot, they have to pay for the use of the lot, while public transportation providers do not, which provides an advantage to the public providers. The Federal Transit Administration (FTA) has encouraged the sharing of the HOV facilities, but the local administrator has not. There are certainly differences regarding these bills, but we want to work out the issues with this bill so that the public providers, the private providers, and the transit users all benefit.

(With concerns) The recipients of federal funds will be held accountable by the FTA for the funds they receive, and it is not clear that the FTA will accept the use of public facilities by private providers. This bill could effect the speed and reliability of transit service because many of the transit only facilities are already at capacity. The requirement to design facilities in order to accommodate private users is unclear, and could drive significant costs for future projects.

(Opposed) Transit-only lanes can be used by both public and private buses already. King County has passed ordinances to allow for the use of transit lanes by private providers on a case-by-case basis, but some lanes are full so this cannot be done. It is problematic when private providers can charge for the use of a park and ride lot and the public providers cannot, but sharing the lots is not a problem except when the lots fill during peak hours. There is also concern about how long some vehicles will be in the lot if the owner has taken a shuttle to the airport for a vacation or the port for a cruise. Finally, the lack of a fair market value requirement could be a problem if the transit agency is audited by the State Auditor.

Persons Testifying: (In support) Representative Clibborn, prime sponsor; Gladys Gillis, Northwest Motorcoach Association; and Amber Carter, Association of Washington Business.

(With concerns) Eric Widstrand, Seattle Department of Transportation; and Celia Kupersmith, Sound Transit.

(Opposed) Michael Shaw, Washington State Transit Association; and Genesee Adkins, King County.

Persons Signed In To Testify But Not Testifying: None.