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**Labor & Workforce Development  
Committee**

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**HB 2395**

**Brief Description:** Regulating drayage truck operators.

**Sponsors:** Representatives Sells, Reykdal, Upthegrove, Ryu, Moscoso, Ormsby, Hasegawa, Fitzgibbon, Hudgins, Darneille, Cody, Kenney, Santos, Roberts, Green, Miloscia, Pettigrew, Dickerson, Moeller, Appleton, Lias, Jenkins, Dunshee, Van De Wege, Goodman, Orwall, Hunt, Wylie, Billig and Probst.

**Brief Summary of Bill**

- Makes certain truck drivers moving cargo through port or intermodal rail yard property statutory employees for purposes of specified employment laws.

**Hearing Date:** 1/24/12

**Staff:** Joan Elgee (786-7106).

**Background:**

Employment standards generally apply only if there is an employer-employee relationship rather than an independent contractor relationship. The term "independent contractor" is not used in the law; instead, the concept is embodied statutory and non-statutory tests used to determine if a worker is not an employee under a particular law. The laws for which status as an "employee" is required for the standards to apply include the Minimum Wage Act, the Industrial Welfare Act, the Wage Payment Act, the Washington Industrial Safety and Health Act. For purposes of unemployment insurance laws, and the Washington Law Against Discrimination, services must be in employment.

The Minimum Wage Act establishes standards for employee minimum wage, overtime compensation, and recordkeeping. The Industrial Welfare Act is the authority for the employee meal and rest break standards adopted by Department of Labor and Industries (L&I), and also

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covers such employment standards as use of paid leave for care of family members. Under the Wage Payment Act, L&I investigates wage complaints and may order payment of wages owed.

The Washington Industrial Safety and Health Act (WISHA) gives L&I authority to adopt safety and health standards governing conditions of employment.

Under the Washington Law Against Discrimination, the Human Rights Commission may investigate claims of discrimination by employers based on any of several prohibited reasons.

For purposes of unemployment insurance, a person receiving remuneration for services is covered, and contributions (taxes) by employers due, unless exception tests are met establishing that services are not in employment.

The term "drayage trucks" typically refers to a truck doing short-haul transporting of goods.

**Summary of Bill:**

Legislative intent is stated that misclassification of drayage drivers as independent contractors results in drivers working in unsafe conditions and without employment protections, and that misclassification is unfair to law-abiding businesses and results in lost revenue to the state. By defining drayage drivers as statutory employees, the Legislature intends to avoid litigation, increase safety to drivers and the public, insure drivers receive employment protections, and facilitate tax collection. The Legislature does not intend to exclude drayage drivers from the protection of other employment standards.

Drayage truck operators are defined in statute to be employees for purposes of the Industrial Welfare Act, the Minimum Wage Act, the Wage Payment Act, the Washington Industrial Safety and Health Act, and the Washington Law Against Discrimination. Services performed by a drayage truck operator are similarly defined to be services in employment for purposes of unemployment compensation, and the exception tests to do not apply.

A drayage truck operator is 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.

**Appropriation:** None.

**Fiscal Note:** Requested on January 19, 2012.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.