

HOUSE BILL REPORT

HB 1457

As Reported by House Committee On:

Transportation
Appropriations

Title: An act relating to a motor carrier's ability to access restroom facilities required by rules authorized under chapter 49.17 RCW.

Brief Description: Concerning a motor carrier's ability to access restroom facilities required by rules authorized under chapter 49.17 RCW.

Sponsors: Representatives Robertson, Berry, Santos, Reed and Fosse.

Brief History:

Committee Activity:

Transportation: 1/30/23, 2/2/23 [DPS];
Appropriations: 2/16/23, 2/21/23 [DPS(TR)].

Brief Summary of Substitute Bill

- Requires businesses that must provide restrooms under the Washington Industrial Safety and Health Act and that either ship or receive cargo or property to allow the motor carrier that is picking up or delivering the cargo or property to have access to the restrooms, under certain conditions.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 29 members: Representatives Fey, Chair; Donaghy, Vice Chair; Paul, Vice Chair; Timmons, Vice Chair; Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Low, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Berry, Bronoske, Chapman, Cortes, Dent, Doglio, Duerr, Entenman, Goehner, Griffey, Hackney, Klicker, Mena, Orcutt, Ramel, Ramos,

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.

Schmidt, Taylor, Volz, Walsh and Wylie.

Staff: Mark Matteson (786-7145).

Background:

Motor Carriers.

Motor carriers are entities that transport property for others in interstate or intrastate commerce. Motor carriers are generally regulated by the Utility and Transportation Commission under state law.

Shippers and Consignees.

A shipper is a business or person that tenders property to a motor carrier for transportation in interstate or intrastate commerce. A consignee is a business or person who takes delivery of property from a motor carrier in interstate or intrastate commerce.

Restroom Requirements.

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. The Department of Labor & Industries has adopted general health and safety standards, pursuant to WISHA, that apply to most industries. Employers must generally provide restrooms to employees with a minimum number of toilets, based on the maximum number of employees present at any one time during a shift. An exception to this rule is allowed for mobile crews or work locations not normally attended by employees.

A retail establishment that has an employee restroom must allow a customer to use that employee restroom during normal business hours if:

- three or more employees of the retail establishment are working at the time the customer requests use of the employee restroom, and the establishment does not normally make a restroom available to the public; and
- the employee restroom is reasonably safe, and is not located in an area where providing access would create an obvious health or safety risk to the customer, or allowing the customer to access the employee restroom does not pose a security risk to the retail establishment or its employees.

A terminal operator of a port district must provide a sufficient number of restrooms for use by drayage truck operators in areas of the terminal that drayage truck operators typically access. This requirement is met if the terminal operator:

- allows drayage truck operators access to existing restrooms while the drayage truck operators are on port property, when access does not pose an obvious safety risk to the drayage truck operators and other workers in the area, is in areas where drayage truck operators typically have access, and does not violate federal terminal security requirements;
- provides additional restrooms at locations where there is the most need; and

- has a policy that allows drayage truck operators to leave their vehicles at reasonable times and locations for purposes of accessing restrooms.

The Department of Health (DOH) and L&I are granted jurisdiction to enforce the restroom requirements for port district terminal operators. The DOH is allowed to issue a warning for a first violation of the requirements and a class 2 civil infraction for subsequent violations. Failure to comply with the restroom requirement is a violation of WISHA.

Summary of Substitute Bill:

Restroom Access for Motor Carriers.

A shipper or consignee required to provide a restroom by rules authorized under WISHA must allow a motor carrier delivering goods to the consignee, or picking goods up from the shipper, to use that restroom during normal business hours if:

- the restroom is located in an area where providing access would not create an obvious health or safety risk to the motor carrier; and
- allowing the motor carrier access to the restroom does not pose any obvious security, health, or safety risk to the shipper, consignee, or its employees.

A shipper or consignee is not required to make any physical changes to a restroom and may require that an employee accompany a motor carrier to the restroom. A shipper or consignee, or an employee of a shipper or consignee, is not civilly liable for any act or omission in allowing a motor carrier to use a restroom if: (1) the act or omission is not willful or grossly negligent; (2) occurs in an area of the shipper or consignee facility that is not accessible to the public; and (3) results in an injury to, or death of the motor carrier, or any individual other than an employee accompanying the motor carrier.

Enforcement.

The DOH has jurisdiction. The DOH may issue a warning letter to a shipper or consignee for a first violation. A shipper or consignee that violates these provisions after receiving a warning letter is guilty of a class 2 civil infraction.

Substitute Bill Compared to Original Bill:

The substitute bill removes L&I's enforcement authority for the purposes of the bill and replaces the term "receiver" with "consignee."

Appropriation: None.

Fiscal Note: Available.

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) This bill is important to all truck drivers and especially to those who are women. They may get to a place where they are in a queue waiting to either drop off or pick up and, if there are no facilities available, it can be a greater challenge for them. We see the number of female truck drivers increasing within the industry. This bill came out of the Joint Transportation Committee study on truck parking issues from two years ago, and the Legislature addressed part of the study last year. This expands what was enacted last year.

The Washington Trucking Associations (WTA) supports this. Last year, the Legislature addressed the issue of restroom access at port terminals for drayage drivers, but did not address other places where motor carriers pick up or drop off freight. While the majority of shippers and consignees do allow access when truck drivers request restroom accommodations, not all do. Because of logistical issues, some drivers may have to wait 30-45 minutes. It's an important concern, and the approach here is reasonable. It allows access to drivers as long as there aren't any obvious health, safety, or security concerns. It also protects the shipper or consignee with respect to potential liability. It doesn't compel any business to provide restrooms, if there are none to begin with.

The WTA supports the proposed amendment to remove L&I from the bill. The DOH already has a system from last year regarding receiving complaints.

(Opposed) None.

(Other) The Association of Washington Business is fully supportive of the underlying concept but wishes to see a few technical issues addressed in an amendment. The WTA has been accommodating so far, so we are hopeful that these things can be resolved.

Persons Testifying: (In support) Representative Eric Robertson, prime sponsor; and Jeff DeVere, Washington Trucking Associations.

(Other) Mike Ennis, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Transportation be substituted therefor and the substitute bill do pass. Signed by 31 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary,

Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg, Chandler, Chopp, Connors, Couture, Davis, Dye, Fitzgibbon, Hansen, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Steele, Stonier and Tharinger.

Staff: Lily Smith (786-7175).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Transportation:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

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 purpose of this bill is to provide reasonable access to restrooms. The enforcement provisions are not meant to be punitive, but rather to provide support to ensure that people have what they need. Restroom access is frequently denied for this industry, and no profession should be treated like this. Reasonable access to restrooms is generally provided for other professions, and this industry just wants the same rights as everyone else.

(Opposed) None.

Persons Testifying: Jeff DeVere, Washington Trucking Associations; and Ryan Johnson.

Persons Signed In To Testify But Not Testifying: None.