

---

HOUSE BILL 1662

---

State of Washington                      58th Legislature                      2003 Regular Session

By Representatives Cooper, Cody and McDermott

Read first time 02/04/2003. Referred to Committee on Transportation.

1            AN ACT Relating to the intermodal container safety program; adding  
2 a new chapter to Title 81 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            NEW SECTION.    **Sec. 1.** The legislature finds and declares the  
5 following:

6            (1) Under chapter 46.44 RCW, vehicles must meet certain gross  
7 vehicle weight restrictions to travel on state roadways. In addition,  
8 most states regulate the allowable gross weight on a single axle or set  
9 of axles. In this state, the maximum allowable gross weight on a  
10 single axle is 20,000 pounds and on a set of tandem axles is 40,000  
11 pounds. Often, however, these axle weight limits are violated because  
12 containers are loaded with cargo well beyond any vehicle's axle or  
13 overall weight-bearing capacity.

14            (2) Transporting overweight containers on public roadways presents  
15 significant dangers to the driver and the public. Due to the weight,  
16 balance, and force of the load, a driver transporting an overweight or  
17 improperly loaded container requires increased braking distance to  
18 reach a complete stop. Moreover, a higher center of gravity coupled

1 with an overweight or unbalanced load increases the risk of chassis  
2 separation and flipped rigs when a driver makes a turn.

3 (3) The Washington state patrol should pursue more strict  
4 enforcement of existing state and federal laws regarding improperly  
5 packed and unsafely loaded intermodal containers, and maximum vehicle  
6 weight restrictions.

7 NEW SECTION. **Sec. 2.** (1) An ocean marine terminal that receives  
8 and dispatches intermodal containers shall implement and carry out the  
9 intermodal container safety program, as described in this chapter.

10 (2) No ocean marine terminal operator may tender to, or interchange  
11 with, a motor carrier, an intermodal container that when loaded upon a  
12 vehicle or chassis causes the motor carrier's vehicle or chassis to  
13 exceed this state's axle weight restrictions or the federal gross  
14 vehicle weight restrictions. An ocean marine terminal operator  
15 tendering to a motor carrier such a container will be fined five  
16 hundred dollars per occurrence.

17 (3) No ocean marine terminal operator may tender to, or interchange  
18 with, a motor carrier, an intermodal container that, upon inspection,  
19 is determined to be improperly packed or unsafely loaded. An ocean  
20 marine terminal operator tendering to a motor carrier such a container  
21 will be fined five hundred dollars per occurrence.

22 (4) Nothing in this chapter is meant to supersede the federal  
23 weight restrictions provided in 49 C.F.R. Sec. 5903. Rather, this  
24 chapter imposes compliance with both this state's axle weight  
25 restrictions and the federal gross vehicle weight restrictions.

26 NEW SECTION. **Sec. 3.** (1) Ocean marine terminal operators shall  
27 weigh and inspect all containers upon the container's arrival at the  
28 terminal. Containers that weigh less than or equal to an amount that  
29 when loaded upon a chassis or vehicle, does not cause the chassis or  
30 vehicle to exceed this state's axle weight restrictions, and are  
31 determined upon inspection to be safely loaded and properly packed,  
32 will be green-tagged and placed in an area designated for interchange  
33 to a motor carrier. The tag will contain:

- 34 (a) The name of the person who weighed and inspected the container;
- 35 (b) The date and time that the container was weighed and inspected;

1 (c) The weight of the container and determination of inspection;  
2 and

3 (d) Since a chassis or vehicle's weight-bearing capacity varies  
4 depending upon the number of axles that a chassis or vehicle has, each  
5 green tag must designate the appropriate chassis or vehicle with the  
6 necessary number of axles, that may transport that container.

7 (2) The tag must be provided by the ocean marine terminal operator  
8 and must meet specifications determined by the state patrol.

9 (3) If, however, a container weighs more than an amount that when  
10 loaded upon a chassis or vehicle shall cause the chassis or vehicle to  
11 exceed this state's axle weight restrictions, or is determined upon  
12 inspection to be improperly packed or unsafely loaded, it must be red-  
13 tagged and transported to a facility located at the ocean marine  
14 terminal to be unloaded and repacked until the container can be safely  
15 operated on the public highways and falls within a weight that when  
16 loaded upon a chassis or vehicle, the chassis or vehicle's weight is  
17 within this state's axle weight restrictions. Alternatively, the ocean  
18 marine terminal operator shall return the overweight container to its  
19 original sender.

20 (a) The ocean marine terminal shall bear the costs of transporting  
21 the container to the facility, and unloading and repacking the  
22 container.

23 (b) To ensure both compliance and reimbursement, a container may be  
24 embargoed until payment is received.

25 (4) Once a container has been unloaded and repacked, it will be  
26 green-tagged and transported to an area designated for interchange to  
27 a motor carrier.

28 (5) If an overweight, improperly packed, or unsafely loaded  
29 container, regardless of whether it has been green- or red-tagged is  
30 interchanged to a motor carrier, and the motor carrier has not yet left  
31 the terminal:

32 (a) The driver may request that the container be reweighed or  
33 repacked by the entity responsible for weighing and inspecting the  
34 container under this chapter;

35 (b) The driver must be compensated by the ocean marine terminal at  
36 one hundred dollars per hour for time spent transporting the container  
37 to the unloading or repacking facility, and for locating a container

1 that when loaded upon the chassis or vehicle does not cause the chassis  
2 or vehicle to exceed this state's axle weight restrictions or highway  
3 safety rules; and

4 (c) Any such request, any corrective action taken, and the reason  
5 why corrective action was not taken must be recorded in the intermodal  
6 container maintenance file under section 4 of this act. Alternatively,  
7 the driver may contact a law enforcement agency with regard to the  
8 weight of the container.

9 (6) No driver may be threatened, coerced, or otherwise retaliated  
10 against by an ocean marine terminal operator for requesting that a  
11 container be reweighed or repacked or for contacting a law enforcement  
12 agency with regard to the weight or safety of an intermodal container.  
13 If a driver is so threatened, the driver must be protected by and  
14 afforded all rights and remedies provided in the state whistleblower  
15 statute, chapter 42.40 RCW. Accordingly, any person who violates this  
16 section is subject to the penalties provided in chapter 42.40 RCW.

17 (7) If an overweight, improperly packed, or unsafely loaded  
18 container is interchanged to a motor carrier, and the motor carrier has  
19 left the terminal, the ocean marine terminal operator is responsible  
20 for any time during which the motor carrier is detained by state  
21 officials for violations of this chapter. The ocean marine terminal  
22 shall pay the driver at the rate specified in the contract plus one  
23 hundred dollars per hour for all time spent related to the infraction.

24 (8) A citation, summons, or complaint issued as a result of a  
25 violation of a state axle weight violation must be issued to the ocean  
26 marine terminal operator responsible for weighing and inspecting the  
27 container.

28 NEW SECTION. **Sec. 4.** (1) Records regarding the weight and  
29 inspection of each container entering an ocean marine terminal must be:

30 (a) Maintained for ninety days at the ocean marine terminal where  
31 each container is weighed and inspected;

32 (b) Made available upon request by any authorized employee of the  
33 utilities and transportation commission or the state patrol; and

34 (c) Made available during normal business hours to any motor  
35 carrier or driver or the authorized representative thereof who has been  
36 engaged to transport a container from the ocean marine terminal.

1 (2) Records must be kept for any container that must be unloaded  
2 and repacked under the requirements of section 3 of this act. The  
3 records must be:

4 (a) Maintained for two years at the ocean marine terminal;

5 (b) Made available upon request by any authorized employee of the  
6 utilities and transportation commission or the state patrol; and

7 (c) Made available during normal business hours to any motor  
8 carrier or driver or the authorized representative thereof who has been  
9 engaged to transport a container from the ocean marine terminal.

10 (3) Requests made under section 3(5)(a) of this act that a  
11 container be reweighed or repacked must be recorded in the intermodal  
12 container safety file and maintained and made available under  
13 subsection (1)(a) through (c) of this section.

14 (4) All records described in this section may be kept in a computer  
15 system if printouts of those records are provided upon request.

16 NEW SECTION. **Sec. 5.** (1) The commercial vehicle division of the  
17 state patrol shall conduct random, but at least annual, on-site reviews  
18 of ocean marine terminals to determine whether the terminal is  
19 complying with the requirements of this chapter, including but not  
20 limited to weighing and inspecting intermodal containers; their  
21 tagging, quarantine, and repacking; and recordkeeping requirements.  
22 After an inspection in which the commercial vehicle division determines  
23 that an ocean marine terminal operator has failed to comply with any of  
24 the requirements of this chapter, the chief of the state patrol shall:

25 (a) Require the ocean marine terminal to comply immediately with  
26 this chapter;

27 (b) Fine the ocean marine terminal operator one hundred dollars for  
28 every day, after the day of inspection, that the terminal fails to  
29 comply with this chapter; and

30 (c) After ten days of noncompliance, immediately forward a  
31 recommendation to the utilities and transportation commission to  
32 suspend the terminal's motor carrier property permit, and forward a  
33 recommendation to the Federal Motor Carrier Safety Administration for  
34 administrative or other action deemed necessary against the ocean  
35 marine terminal's interstate operating authority.

36 (2) After twenty days of noncompliance, the utilities and

1 transportation commission shall revoke the ocean marine terminal's  
2 property permit.

3 (3) If an inspection results in an unsatisfactory rating due to  
4 conditions presenting an imminent danger to the public safety, the  
5 utilities and transportation commission shall take actions under  
6 subsections (1)(c) and (2) of this section.

7 (4) In addition, any state patrol officer, while in the performance  
8 of the duties of office, may enter at any time an ocean marine terminal  
9 to weigh and inspect any intermodal containers that have been green-  
10 tagged. If any green-tagged container that when loaded upon a vehicle  
11 or chassis with the appropriate number of axles as specified on the  
12 green tag causes the motor carrier's vehicle or chassis to exceed this  
13 state's axle weight restrictions or the federal gross vehicle weight  
14 restrictions, or is determined to be improperly packed or unsafely  
15 loaded, the ocean marine terminal operator is subject to a fine of one  
16 thousand dollars per overweight or unsafe container as well as any of  
17 the penalties set forth in this section.

18 NEW SECTION. **Sec. 6.** The utilities and transportation commission  
19 and the state patrol shall adopt rules necessary to effectuate the  
20 purposes of this chapter.

21 NEW SECTION. **Sec. 7.** Nothing in this chapter relieves a  
22 commercial driver or commercial motor carrier of any duty imposed by  
23 state or federal law related to the safe operation of a commercial  
24 motor vehicle.

25 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act constitute  
26 a new chapter in Title 81 RCW.

--- END ---