

HOUSE BILL REPORT

SHB 1304

As Amended by the Senate

Title: An act relating to commercial motor vehicle carriers.

Brief Description: Modifying commercial motor vehicle carrier provisions.

Sponsors: By House Committee on Transportation (originally sponsored by Representatives Kagi, Clibborn, Jarrett, Flannigan, McCoy, Darneille, Lovick, Campbell, Schual-Berke, Kenney, Morrell and Roberts).

Brief History:

Committee Activity:

Transportation: 1/24/07, 2/14/07 [DPS].

Floor Activity:

Passed House: 2/28/07, 88-9.

Senate Amended.

Passed Senate: 4/4/07, 42-4.

Brief Summary of Substitute Bill

- Authorizes the Washington State Patrol (WSP) to use data-driven analysis to prioritize motor carriers for inspection and compliance reviews.
- Requires certain intrastate motor carriers to have United States Department of Transportation numbers.
- Authorizes the WSP to place motor carriers out of service until violations have been corrected.
- Increases penalties for commercial vehicle compliance and safety violations.
- Increases trip permit fees by \$5; the additional amount is dedicated to commercial vehicle inspections.
- Increases the registration fee for vehicles subject to highway inspections and terminal audits from \$10 to \$16.

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.

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; Jarrett, Ranking Minority Member; Appleton, Armstrong, Campbell, Curtis, Dickerson, Eddy, Hailey, Hankins, Hudgins, Lovick, Rodne, Rolfes, Sells, Simpson, Springer, B. Sullivan, Takko, Upthegrove, Wallace and Wood.

Minority Report: Do not pass. Signed by 3 members: Representatives Schindler, Assistant Ranking Minority Member; Ericksen and Kristiansen.

Staff: Jerry Long (786-7306).

Background:

Substitute House Bill 2987 was enacted from the 2006 Legislative session. In the bill, the Washington State Patrol (WSP) was directed 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 the State of Washington (intrastate), while other motor carriers operate in multiple states (interstate).

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 each interstate motor carrier to have a number issued by the United States Department of Transportation (USDOT number) and maintains a safety rating on each motor carrier. The FMCSA will issue an out-of-service order on a carrier if the carrier has received an unsatisfactory safety rating.

The WSP enforces safety requirements for intrastate operators of commercial vehicles, and has the authority to place any commercial vehicle out of service if it is found to be unsafe to operate on the roadways. The WSP conducts compliance reviews for most intrastate motor carriers, and has the authority to assess penalties for non-compliance with safety requirements. Motor vehicles owned and operated by farmers and those motor carriers subject to economic regulation by the Utilities and Transportation Commission are inspected by the WSP.

There is no requirement for intrastate motor carriers to have a USDOT number, so there is no convenient mechanism for tracking the relative safety fitness of an intrastate motor carrier.

Each vehicle subject to highway inspections and terminal audits that is base plated in Washington pays a fee of \$10 in addition to all other fees and taxes. These fees are deposited in the State Patrol Highway Account.

An unregistered commercial vehicle may operate on Washington highways under authority of a trip permit, which can be purchased for \$15, or in the case of a special fuel user, \$20. Trip permits may be used for a period of three consecutive days.

Summary of Substitute Bill:

The WSP will use data-driven analysis to identify and prioritize for inspection and compliance reviews those motor carriers who have been identified as higher risk carriers. Just as interstate motor carriers are required by the FMCSA to obtain a USDOT number, by January 1, 2008, intrastate motor carriers operating certain commercial vehicles with a gross vehicle weight over 26,001 pounds or carrying hazardous materials are required to apply for USDOT numbers. The WSP shall compile safety data about motor carriers and assess each motor carrier's relative safety fitness based upon inspections, collisions, compliance reviews, and carrier safety management practices.

The WSP, in consultation with the Department of Licensing (DOL), must establish rigorous rules and standards in the areas of commercial motor carrier driver training, controlled substance and alcohol use and testing, compliance with the federal driver's license requirements and penalties, vehicle equipment and safety standards, hazardous material practices, financial responsibility, driver qualifications, hours of service, vehicle inspection and corrective actions, and assessed penalties for noncompliance.

Prior to June 30, 2009, a motor carrier will need a USDOT number and a federal taxpayer identification number to register certain commercial motor vehicles. Commercial motor vehicles must be marked as prescribed by the WSP. The WSP will not issue a USDOT number to a carrier who has an existing out-of-service order from the FMCSA or for not meeting the requirements and standards of state law. Motor carriers with a current and valid USDOT number, or who are subject to economic regulations through the Utilities and Transportation Commission (UTC), are exempt from this requirement. A USDOT number is not required for publicly-owned vehicles.

The WSP is authorized to issue an out-of-service order on a motor carrier's USDOT number if the motor carrier:

- (a) formerly held a USDOT number which is placed out-of-service for cause and the violations have not been corrected;
- (b) is a subterfuge for the real party seeking a USDOT number which is placed out-of-service for violations, and the violations have not been corrected;
- (c) is an eminent hazard to public safety as determined by the chief of the WSP;
- (d) has unpaid penalties assessed by the WSP or the UTC (If a compliance review penalty is not paid within 20 days after receipt of notification of penalties, the WSP may commence with an adjudicative proceeding.); and
- (e) violates cease and desist orders issued by the UTC.

If a USDOT number has been placed out-of-service by the WSP or the FMCSA, the DOL will be notified and must revoke, or refuse to issue, registrations for all commercial vehicles owned by the motor carrier. Carriers will be ineligible for a new USDOT number, vehicle registrations, and temporary permits until such time the deficiencies resulting from an out-of-service order have been corrected.

The WSP is responsible for safety audits and compliance reviews which may result in enforcement actions, including monetary penalties. The WSP is authorized to conduct inspections during regular business hours, to review records, and penalize carriers for failing to cooperate or appear for the audit. Motor carriers who refuse entry for compliance review auditors will be subject to: a penalty of \$5,000; revocation of vehicle registrations; and an out-of-service order being placed on the motor carrier's USDOT number. If a carrier has been identified as a high-risk carrier and receives an unsatisfactory rating during a compliance review, the WSP will perform a follow-up inspection of the carrier to determine whether the violations have been corrected. The fee for the reinspection is \$250 and will be deposited into the State Patrol Highway Account.

Once an out-of-service order has been placed on a vehicle, it is unlawful to operate the vehicle. A carrier who operates a vehicle after receiving an unsatisfactory safety rating and violates an out-of-service order on the USDOT number is subject to a monetary penalty of not more than \$11,000. Violation of an out-of-service order subjects a driver to a penalty of at least \$1,100, but not more than \$2,750; an employer who allows a driver to operate the vehicle to a penalty of at least \$2,750, but not more than \$11,000.

If a motor carrier operates a commercial vehicle using trip permits while the vehicle registration is revoked and the DOT number is placed out-of-service, the violation is a gross misdemeanor, subject to a penalty of no less than \$2,500 for the first violation and \$5,000 for subsequent violations.

The bill increases the registration fee for commercial motor vehicles base plated in Washington that are subject to compliance reviews from \$10 to \$16; increases the trip permit fee from \$15 to \$20; and, increases the fuel permit administration fee from \$10 to \$15. The increase in permit fees must be deposited in the Washington State Patrol Highway Account and must be used for commercial motor vehicle inspections.

EFFECT OF SENATE AMENDMENT(S):

Motor carriers with commercial motor vehicles that weigh between 16,001 and 26,000 pounds, unless exempt, that have not applied for a Department of Transportation number, must apply for a Department of Transportation number by January 1, 2011.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed, except for Section 8, relating to using data driven analysis to prioritize inspections and compliance reviews related to motor carrier, which takes effect immediately.

Staff Summary of Public Testimony:

(In support) There was a working group that worked over the interim to draft legislation to increase commercial vehicle safety in the state. It brings the intrastate carriers which operate solely within Washington State into compliance with the same regulations that govern the interstate carriers that travel in multiple states. It uses a federal system that is already in place to issue the Department of Transportation (DOT) numbers and track the safety experience of a motor carrier. The system using a data driven analysis will flag a carrier with safety problems and will alert the Washington State Patrol (WSP) to the carriers that the agency will want to perform a compliance and audit review on. The new process will identify problem drivers and carriers where, today, there is no way to identify those drivers and carriers until an accident or major violation happens. This provides the authority to the WSP to determine if a motor carrier is a high-risk carrier and a threat to public safety, along with the ability to place the carrier out-of-service immediately. This sets up linkages and processes between state agencies to assist in the identification of problem motor carriers and drivers. It also provides resources to the WSP to perform commercial vehicle enforcement on roadways which currently have no enforcement due to limited resources.

(With concerns) The agriculture community is concerned about the compliance reviews due to the nature of the agricultural cycle, but wants to work with the members in developing an amendment to take care of their concerns and support the bill.

Persons Testifying: (In support) Representative Kagi, prime sponsor; Eileen Llana, widow of Daniel Johnson; Kathleen Ellsbury, widow of Tony Qamar; Coral Estes, Washington State Patrol; Darrin Grondel, Washington State Patrol; Liz Luce, Department of Licensing; and Larry Pursley, Washington Trucking Association.

(With concerns) Steven King, Washington Utilities and Transportation Commission; and Chris Cheney, Washington Hop Growers.

Persons Signed In To Testify But Not Testifying: None.