

HOUSE BILL REPORT

ESHB 1620

As Passed House:
March 13, 2013

Title: An act relating to passenger-carrying vehicles for railroad employees.

Brief Description: Concerning passenger-carrying vehicles for railroad employees.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Stanford, Zeiger, Takko, Haler, Blake, Liias, Clibborn, Jinkins, Wilcox, Ryu, Ormsby, Sells, Appleton, Pedersen, Upthegrove, Magendanz, Pollet, Orcutt, Johnson, Angel, Condotta, Carlyle, Kristiansen, Moeller, Fitzgibbon, Moscoso, Morrell and Santos).

Brief History:

Committee Activity:

Transportation: 2/20/13, 3/1/13 [DPS].

Floor Activity:

Passed House: 3/13/13, 98-0.

Brief Summary of Engrossed Substitute Bill

- Creates a new term for a vehicle that is operated by a charter party carrier and that carries railroad employees: a “contract crew hauling vehicle.”
- Requires that the Utilities and Transportation Commission (UTC) adopt additional rules covering these contract crew hauling vehicles, including additional safety and driver qualification standards and a minimum insurance requirement.
- Establishes procedures and penalties regarding safety complaints related to contract crew hauling vehicles.
- Directs the UTC to study incidents and accidents involving vehicles that carry railroad employees and provide annual reports and recommendations to the Legislature.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 27 members: Representatives Clibborn, Chair; Fey, Vice Chair; Liias, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking

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Minority Member; Angel, Bergquist, Farrell, Fitzgibbon, Freeman, Habib, Hayes, Johnson, Kochmar, Kristiansen, Moeller, Morris, O'Ban, Riccelli, Rodne, Ryu, Sells, Takko, Tarleton, Upthegrove and Zeiger.

Minority Report: Do not pass. Signed by 4 members: Representatives Overstreet, Assistant Ranking Minority Member; Klippert, Kretz and Shea.

Staff: Andrew Russell (786-7143).

Background:

The Utilities and Transportation Commission (UTC) has regulatory authority over several aspects of railroad safety and operations, including the services of "passenger-carrying vehicles." These vehicles are operated and maintained by railroad companies to transport railroad employees between employment assignments.

The railroad companies that operate these vehicles must meet minimum safety standards. For example, any vehicle must have an adequate exhaust system, rear vision mirrors, a heating system, and emergency and first aid kits. Additionally, drivers must be at least 18 years old, have a valid driver's license, and be capable of handling the controls with ease. The UTC also imposes a daily hours of service limit on drivers. In driving these vehicles, the operator must bring the vehicle to a complete stop at least 15 feet from any railroad crossing, unless traffic is controlled by a police officer, traffic control signal, or crossing gate. Finally, the UTC prohibits passengers from entering or exiting the vehicle while it is in motion and riding anywhere except inside the vehicle.

These vehicles may also be operated by independent carriers that have a contract with the railroad company. In that situation, the UTC's railroad passenger-carrying vehicle rules do not apply, and the contractor is subject to the UTC's rules regarding passenger transportation companies. The UTC requires operators to obtain a certificate of operation from the UTC, and operators must maintain a minimum level of insurance. The level of mandatory insurance coverage is \$1,500,000 for vehicles that carry 15 or fewer people.

In overseeing these companies, the UTC has also adopted federal regulations that cover safety standards for commercial motor vehicles. These federal regulations provide equipment standards that are necessary for safe operation, such as headlights and brakes. The regulations also provide standards for driving commercial vehicles, such as stopping at railroad crossings. The hours of service for drivers are limited by federal regulation, as are the standards for transporting hazardous materials. Finally, inspections and regular maintenance are mandated.

Summary of Engrossed Substitute Bill:

When operated by a "charter party carrier," as defined in RCW 81.70.020, vehicles that carry railroad employees are termed "contract crew hauling vehicles." These vehicles are regulated by the UTC with respect to certain safety and operational standards. These standards include driver qualifications, passenger safety, safety of operations, and a minimum level of insurance. Operators of contract crew hauling vehicles must have at least \$5 million

of liability insurance, \$5 million of uninsured and underinsured motorist coverage, and \$500,000 of coverage for damage to property. These amounts may, however, be increased by the UTC.

Additionally, the UTC may inspect any contract crew hauling vehicle and is empowered to suspend, revoke, or cancel the operational certificate of a charter party carrier for serious or repeated violations of the rules governing such vehicles. Operators of contract crew hauling vehicles must post notice that informs passengers of their right to submit safety complaints to the UTC, which must investigate any such complaint. Finally, a driver is disqualified to operate a contract crew hauling vehicle if the person's driver's license is suspended or revoked two or more times within a three-year period.

Charter party carriers regulated by this chapter are required to retain operational records for these vehicles, including accidents, maintenance and service, driver logs, and passenger logs.

Finally, the UTC is directed to study incidents and accidents involving vehicles that carry railroad employees, whether that vehicle is operated by a railroad as a passenger-carrying vehicle or by a charter party carrier as a contract crew hauling vehicle. The operator of such vehicles must, upon request by the UTC, provide certain information regarding any incident or accident. Lastly, the UTC must provide annual reports to the legislature summarizing the last year's findings and recommendations.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) These vehicles are most often used late at night, in remote areas. Drivers have to be alert, and safety standards are important. The fact that when railroads contract out the operation of passenger-carrying vehicles, different standards apply needs to be fixed.

This bipartisan legislation is a step in the right direction, ensuring these vehicles meet reasonable safety standards. The safety of these vehicles has declined over the last several years, as the operations have been contracted out to third parties. A lot of these drivers are not trained as well as they used to be. Washington can put into place a reasonable set of guidelines and standards to ensure that employees are protected. This bill ensures that those responsible are held accountable for their actions. It is a step in the right direction toward having proper safeguards established. This bill allows railroad employees and families to take comfort knowing that the precautions are being taken.

The railroad environment is extraordinarily dangerous, and there are a lot of people who have suffered injuries and death as a result. Subcontracted van companies have gone through bankruptcy and have violated hours of service laws. There are a lot of problems with these transporters, and they are being regulated less seriously than airport transporters. Railroad

workers feel that the most dangerous aspect of their jobs is riding in these passenger-carrying vehicles. The operators have high driver turnover, exercise poor screening and training, and do not oversee their drivers' skills. There is also a problem of uninsured motorist coverage. This bill will help make things a little bit safer for members of this community.

The UTC regulates some kinds of passenger-carrying vehicles, but this bill allows loopholes to be closed. The original bill had some issues from the perspective of the UTC, but they can be fixed in a substitute bill.

(Opposed) Railroads take seriously their safety obligations, both for their employees and the public. Railroads already impose insurance, driver, vehicle, and operator standards. In considering short-line railroads, one size does not fit all, and these requirements are unwarranted.

Persons Testifying: (In support) Representative Stanford, prime sponsor; Mike Elliott and Shahraim Allen, Brotherhood of Locomotive Engineers and Trainmen; Laurie Kenny; George Thornton, Thornton Mostul, PLLC; Robert Hill, Railroad Workers United; Herb Krohn and Jourdan Marshall, United Transportation Union; and Ann Rendahl, Utilities and Transportation Commission.

(Opposed) Bill Stauffacher, Burlington Northern Santa Fe Railway; and Eric Johnson, Washington Public Ports Association and Port of Pend Oreille.

Persons Signed In To Testify But Not Testifying: None.