

HOUSE BILL REPORT

HB 2137

As Reported by House Committee On: Transportation

Title: An act relating to provisions governing commercial motor vehicles.

Brief Description: Modifying provisions governing commercial motor vehicles.

Sponsors: Representatives Johnson, Moscoso, Hayes, Takko, Klippert, Haler, Ross and Ryu; by request of Washington State Patrol.

Brief History:

Committee Activity:

Transportation: 1/21/14, 1/23/14, 1/29/14, 1/30/14 [DP].

Brief Summary of Bill

- Changes the size of the warning flag on over-dimensional loads to 18 inches allowing for red or orange fluorescent warning flags.
- Clarifies that only certain agricultural operations are exempt from regulations concerning the transportation of hazardous materials.
- Provides the Washington State Patrol (WSP) authority to inspect entities that manufacture or perform pre-transportation of hazardous materials functions for compliance with the federal standards.
- Removes the exemption for school buses to stop at railroad crossings.
- Removes the requirement for the WSP to establish a list of railroad crossings where stopping is not required.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass. Signed by 29 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Bergquist, Fitzgibbon, Freeman, Habib, Hawkins, Hayes, Johnson, Klippert, Kochmar, Moeller, Morris, Muri, Ortiz-Self, Pike, Riccelli, Ryu, Sells, Shea, Takko, Tarleton, Walkinshaw and Zeiger.

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.

Minority Report: Do not pass. Signed by 1 member: Representative Young.

Staff: Jerry Long (786-7306).

Background:

In a recent audit of Washington law, the Federal Motor Carrier Safety Administration (FMCSA) and the State of Washington staff identified the following state laws that appeared to be incompatible with federal rules:

1. State law currently sets the minimum size for red warning flags used on over-dimensional loads at 12 inches square. The Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA-LU) brought about changes to federal law requiring these warning flags to be 18 inches square. The law also allows for red or orange fluorescent warning flags.
2. State law currently limits the Washington State Patrol (WSP) to enforcement of hazardous materials on commercial motor carriers during the transportation of those materials on the highways. The motor carrier is only one of the entities involved in ensuring the safe transportation of hazardous materials under the federal regulations. The federal code applies to all entities, which includes not only the motor carriers on the public highways, but also the entities that manufacture or perform pre-transportation of the hazardous material functions. Presently the WSP does not have the authority under state law to inspect those entities.
3. The recent FMCSA audit noted incompatibility with the farm exemption. The federal code provides limited exemptions for farmers, but does not provide full exemptions of the hazardous material requirements. State law excludes all farmers from the definition of motor carriers.
4. Federal code requires that every bus transporting passengers must stop at a railroad crossing. Currently state law exempts school buses or private carrier buses transporting school children or other passengers from stopping at a railroad crossing if the Superintendent of Public Instruction (Superintendent) has identified circumstances where such vehicles would not be required to stop. The Office of the Superintendent of Public Instruction has provided a policy to follow to each school district that requires school buses to stop at all railroad crossings.
5. Current state statute designates that the WSP, by rule, has identified crossings where stopping is not required; under state law the WSP does not have the authority to provide exemptions for crossings. The Utilities and Transportation Commission (UTC) is the entity that has authority to grant exemptions for railroad crossings.

Summary of Bill:

The bill:

1. changes the size of the warning flag on over-dimensional loads from 12 inches to 18 inches, also allowing for either red or orange fluorescent warning flags;
2. clarifies that only certain agricultural operations are exempt from regulations concerning the transportation of hazardous materials;

3. provides the WSP authority to inspect entities that manufacture or perform pre-transportation of hazardous materials functions for compliance with the federal standards;
 4. removes the exemption for school buses to stop at railroad crossings; and
 5. removes the requirement for the WSP to establish a list of railroad crossings where stopping is not required and changes the authority to the UTC.
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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) The bill provides language cleanup in state statutes to reconcile to required federal statutes. It corrects four areas in state law which a recent federal audit identified the need to be updated. One state statute stipulates that the WSP has the authority to designate which railroad crossings where stopping is not required, which is not correct, it is the UTC. This statute is also being corrected in the bill.

The federal audit identified the following areas where the state statutes needed to be updated: (1) sign and color of warning flags on over-dimensional loads; and (2) only certain agricultural operations were exempt from regulations of hazardous materials and not all as provided for in state statute. State statute restricts the WSP's authority to inspect the manufacture or pre-transportation of hazardous materials where in federal code, it is required.

The Chief of the WSP must certify to the federal government that the state laws are in compliance with federal laws.

There are very limited times where the UTC would be required to designate railroad crossings exempt for school buses. If there are issues that are identified in the future, the UTC would bring those items back to the Legislature for further changes.

(In support with concerns) The Superintendent would be required to develop rules. The bill would require that school buses stop where they would not need to since the Superintendent has determined many of the crossings are exempt from the required stopping specified in the bill. The UTC would need to staff a temporary solution.

(Opposed) None.

Persons Testifying: (In support) Representative Johnson, prime sponsor; Rob Huss, Washington State Patrol; and Ann Rendahl, Utilities and Transportation Commission.

(In support with concerns) Allan Jones, Office of the Superintendent of Public Instruction.

Persons Signed In To Testify But Not Testifying: None.