

SENATE BILL REPORT

ESHB 1105

As of April 3, 2017

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, Orcutt, Clibborn, Stambaugh, Hayes, Stonier, Koster, Holy, Ryu, Ormsby, Fey, Wylie, Dolan, Sells, Muri, Haler, Goodman, Doglio, Hudgins, Gregerson, Barkis, Kilduff, Santos, Tarleton, Pollet, Farrell and Riccelli).

Brief History: Passed House: 3/07/17, 97-0.

Committee Activity: Transportation: 4/03/17.

Brief Summary of Bill

- Requires the Utilities and Transportation Commission to regulate the operation of contract rail crew transportation vehicles.

SENATE COMMITTEE ON TRANSPORTATION

Staff: Kelly Simpson (786-7403)

Background: Under current law, the Utilities and Transportation Commission (UTC) regulates various private transportation providers. One of the private transportation providers regulated by the UTC includes passenger-carrying vehicles, owned by railroad companies, to transport railroad employees. However, the UTC currently has no direct regulatory authority over private transportation providers contracted out by railroad companies to transport railroad employees.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Striking Amendment): The UTC is required to regulate the operation of contract crew transportation vehicles, generally defined as motor vehicles, designed to transport 15 or fewer passengers, including the driver, that are owned by a person contracting with a railroad company and used primarily to provide railroad crew transportation.

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.

The UTC must regulate the operation of contract crew transportation vehicles with respect to driver qualifications, equipment safety, safety of operations, passenger safety, drug testing requirements, and record retention. This regulation must be consistent with the manner in which the commission regulates these areas with respect to auto transportation companies and charter/excursion buses, as well as with the approach used in federal motor carrier safety regulations under title 49 of the Code of Federal Regulations.

Additionally, the UTC must require operators of contract crew transportation vehicles to meet the following requirements:

- carry insurance coverage in the following minimum amounts: \$5 million combined single limit coverage for bodily injury and property damage liability coverage, and uninsured and underinsured motorist coverage of \$1 million;
- post adequate notices in contract crew transportation vehicles to advise railroad employee passengers of their rights, the opportunity to submit safety complaints to the UTC, the complaint process, and contact information for the UTC; and
- ensure that drivers of contract crew transportation vehicles have completed at least eight hours of UTC-approved safety training.

Specific offenses are identified resulting in automatic disqualification from operating contract crew transportation vehicles.

The UTC must compile data regarding any reported safety complaints, accidents, regulatory violations and fines, and corrective actions taken by the UTC involving vehicles regulated. However, information included in safety complaints that identifies the employee who submitted the complaint is exempt from public inspection under the Public Records Act.

The UTC has broad enforcement authority regarding violations of the bill, including taking investigative actions, imposing monetary penalties, and suspending or revoking permits.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on January 1, 2018.

Staff Summary of Public Testimony on Proposed Striking Amendment: PRO: This is a familiar bill as it's been debated for many years now. The bill would provide much needed safety protections for rail employees. The automatic driver disqualifications section in the bill could be strengthened. The insurance provisions in the bill are not strong enough, as the Federal Employers Liability Act (FELA) is the only remedy available to rail crew injured in a crew van accident, and only then if the railroad company or contractor were at fault. A significant underinsured insurance coverage amount is needed to cover accidents caused by uninsured third parties. All Aboard Washington is a group that supports freight rail and rail workers, and believes that, although not perfect, the insurance provisions should not be what stops the bill from advancing. Rail crew have experienced many very unsafe driving

experiences while riding in rail crew vans. The vans often operate at dark hours of the day/night during poor weather, and often times in remote locations. This bill affects not just the safety of rail crew, but also the safety of the general traveling public. Oftentimes the most dangerous part of a railroad worker's job is traveling in the crew vans. Horrible rail crew accidents are occurring in crew vans, resulting in injuries, deaths, and lawsuits. Stakeholders are still working on a final product, but the striking amendment heard today is very close. Rail crew van drivers are often seniors looking for extra cash. Driving a crew van is not an unskilled job. The crew van service is often contracted out for cost reasons.

OTHER: The striking amendment heard today resolves many of the concerns expressed by BNSF. The automatic driver disqualifications in the bill are very strong and much improved. The drivers safety training piece has been improved, as has the complaint notices piece. Also, the striking amendment has many provisions that are the strongest in the country. There are some areas with which the railroad companies and the worker unions will still disagree. However, the striker is very close to a final product that all sides can live with. The insurance provisions are very complex and include many ramifications, as there currently are very limited, if any, insurance products available for rail crew vans.

Persons Testifying: PRO: Representative Derek Stanford, Prime Sponsor; Lloyd H. Flem, Executive Director, All Aboard Washaington; Allan Manson, Brotherhood of Locomotive Engineers & Trainmen; Herb Krohn, SMART TRANSPORTATION DIVISION - United Transportation Union; Paul McGill, citizen; Shahrain C. Allen, Brotherhood of Locomotive Engineers and Trainmen - WSLB; Bruce Smith, Smart Transportation Union.

OTHER: Johan Hellman, BNSF Railway Co.; Bill Stauffacher, BNSF Rail.

Persons Signed In To Testify But Not Testifying: No one.