

SENATE BILL REPORT

SB 5027

As Amended by House, April 5, 2021

Title: An act relating to closed captioning on televisions in places of public accommodation.

Brief Description: Concerning closed captioning on televisions in places of public accommodation.

Sponsors: Senators Padden, Salomon, Hunt, Lovelett, Stanford and Wilson, C..

Brief History:

Committee Activity: Law & Justice: 1/18/21, 1/21/21 [DP].

Floor Activity: Passed Senate: 2/10/21, 48-1.

Passed House: 4/5/21, 97-0.

Brief Summary of Bill

- Requires closed captioning to be activated on televisions in places of public accommodation with limited exceptions.
- Subjects violations to an initial civil fine up to \$75 for each violation and \$150 for subsequent violations.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; McCune, Assistant Ranking Member; Darneille, Holy, Kuderer, Salomon and Wagoner.

Staff: Tim Ford (786-7423)

Background: The Washington State Law Against Discrimination (WLAD), first adopted in 1949, establishes it is a civil right to be free from discrimination based on race; creed; color; national origin; families with children; sex; marital status; age; the presence of any

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sensory, mental, or physical disability; or the use of a trained dog guide or service animal by a disabled person. This right applies to employment; places of public resort, accommodation, assemblage, or amusement; commerce; and real estate, credit, and insurance transactions.

Closed captioned television programming provides a written text of audio dialog displayed on the television screen. Congress requires video programming distributors—cable operators, broadcasters, satellite distributors and other multi-channel video programming distributors—to close caption their TV programs. The Federal Communications Commission (FCC) rules for TV closed captioning, ensure viewers who are deaf and hard of hearing have full access to programming, address captioning quality, and provide guidance to video programming distributors and programmers. The rules apply to all television programming with captions, requiring captions be:

- accurate—captions must match the spoken words in the dialogue and convey background noises and other sounds to the fullest extent possible;
- synchronous—captions must coincide with their corresponding spoken words and sounds to the greatest extent possible and must be displayed on the screen at a speed that can be read by viewers;
- complete—captions must run from the beginning to the end of the program to the fullest extent possible; and
- properly placed—captions should not block other important visual content on the screen, overlap one another or run off the edge of the video screen.

Currently there are two categories of exemptions from closed captioning rules—self implementing and economically burdensome. Self-implementing exemptions include public service announcements shorter than 10 minutes and not paid for with federal dollars, programming shown from 2:00 a.m. to 6:00 a.m., and programming primarily textual. There is also an exemption for locally produced non-news programming with no repeat value. The FCC has established procedures for petitioning for an exemption from the closed captioning rules when compliance would be economically burdensome.

Summary of Bill: Any person owning or managing a place of public accommodation with a closed captioned television in a public area must activate the closed captioned programming. Exemptions apply for television sets that are incapable of displaying closed captioning or where the place of public accommodation is otherwise exempt under state or federal law. Limited exemptions are authorized for up to 50 percent of TVs in public areas where the TVs clearly display they do not have volume or are on mute. If multiple TVs are displayed for sale, at least one must display closed captioned programming. Language option displays are limited to the language of the audio program, or the default option where a TV displays only one language.

Violators are subject to fines up to \$75 and up to \$150 for subsequent violations. Written notice of the violation must be provided, and a violator must be given an opportunity to cure the violation prior to being subject to a fine. If the person demonstrates compliance with

the requirement within 30 days of delivery of the notice, the initial violation must be dismissed.

A violation of this law is a violation of WLAD. The Human Rights Commission must prepare an educational pamphlet advising employers and employees of their duty and liability. The pamphlet should be available online. Employers must provide employees with training on this law.

Appropriation: None.

Fiscal Note: Not requested.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The idea is to help people who are hearing impaired. It is an education effort. The fines are fairly modest and there is an opportunity to cure the violation and avoid the fine. The Human Rights Commission is to provide a pamphlet for education.

We would like to see a statewide closed captioning law. It helps us access information quickly. It helps us get weather and emergency alerts and which way is safest to get home. Having closed captions turned on does not cost business anything.

There are many people who rely on closed captioning including older people who have lost some hearing, people who are learning English as a second language, and it helps people with autism or learning disabilities to focus. Standard technical requirements help read the captions.

Deaf or hard of hearing individuals are not asking for special treatment. Not all, but only 50 percent of TV's are required to show closed captioning. This is similar to other legal requirements for access for disabled that require some access for the disabled to a building but not all points of access.

OTHER: It is much better to have a statewide standard rather than a patchwork of local ordinances.

Persons Testifying: PRO: Senator Mike Padden, Prime Sponsor; Jim House, Washington State Association of the Deaf; Conrad Reynoldson, citizen; Dean Olson, citizen; Eric Scheir, Seattle Commission for People with Disabilities; Elizabeth Harvey, Washington Court Reporters Association; Preston Dwoskin, citizen.

OTHER: Mark Johnson, Washington Retail Association.

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

EFFECT OF HOUSE AMENDMENT(S):

- Requires closed captioning to be in white text color with a black background and in a style and size that is readable to people with low vision.
- Allows a place of public accommodation to deactivate closed captioning at the request of a person who has a visual impairment. The period of deactivation is for the length of time the requestor is at the place of public accommodation.