

# HOUSE BILL REPORT

## HB 2695

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### As Reported by House Committee On:

Commerce & Labor

**Title:** An act relating to railroad safety in Washington state.

**Brief Description:** Providing for railroad safety.

**Sponsors:** Representatives Conway, Lysen, Wood, Kenney and Kirby.

### Brief History:

#### Committee Activity:

Commerce & Labor: 2/4/02, 2/7/02 [DP].

#### Brief Summary of Bill

- Allows railroad company employees that are fatigued and unable to safely perform their duties to absent themselves from service to their companies.
- Authorizes the Utilities and Transportation Commission to fine railroad companies that take adverse actions against these employees.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass. Signed by 4 members: Representatives Conway, Chair; Wood, Vice Chair; Kenney and Lysen.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Clements, Ranking Minority Member; and Chandler.

**Staff:** Jill Reinmuth (786-7134); Chris Cordes (786-7103).

### Background:

In the early 1900s, state and federal laws were enacted that restricted the hours of service that railroad companies could require of certain railroad employees.

The state law prohibits railroads from requiring train employees to remain on duty more than 12 consecutive hours, except in emergencies. It also prohibits railroads from requiring train employees who have been on duty for 12 consecutive hours to go on duty

without having had at least 10 hours off duty, or from requiring train employees who have been on duty an aggregate of 12 hours in a 24-hour period to continue on duty without having had at least eight hours off within the 24-hour period.

The federal Hours of Service Act prohibits a railroad carrier from requiring a train employee to remain or go on duty: (1) unless the employee has had at least eight consecutive hours off duty during the prior 24 hours; or (2) after the employee has been on duty for 12 consecutive hours, until that employee has had at least 10 consecutive hours off duty. Other restrictions apply to the hours of service performed by signal employees and dispatching service employees. The federal law notes that these restrictions are the maximum number of hours that an employee may be on duty consistent with safety.

The U.S. Supreme Court has explained that the federal law resulted from casualties in railroad transportation which resulted from requiring the discharge of arduous duties by tired and exhausted men whose power of service and energy had been so weakened by overwork.— The U.S. Supreme Court has also held that the federal law makes state laws restricting the hours of labor of interstate railroad employees inoperative.

In 1970 the federal Railroad Safety Act was enacted. It provides that laws, regulations, and orders related to railroad safety shall be nationally uniform to the extent practicable.— It permits a state to adopt more stringent laws or rules related to railroad safety when it: (1) is necessary to eliminate or reduce an essentially local safety hazard; (2) is not incompatible with a federal law, regulation, or order; and (3) does not unreasonably burden interstate commerce.

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**Summary of Bill:**

Railroad company employees that are fatigued and unable to safely perform their duties may absent themselves from service to their companies. These employees must not be subject to intimidation, retribution, or negative notation on their employment records.

The Utilities and Transportation Commission may fine railroad companies that take adverse actions against these employees as follows:

- \$25 to \$100 for a first offense;
- \$100 to \$500 for a second offense within three years of the prior offense; and
- \$500 to \$1,000 for a third or subsequent offense within three years of a prior offense.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** Conditions for railroad workers have deteriorated dramatically since the merger of Burlington-Northern with the Santa Fe Railroad. Now employees are not given assigned hours, but work in a pool arrangement. This means that workers work many shifts with little time between shifts to rest, especially when the assignment begins in a location far from home. Even though the rest period meets the legal requirements, it is not enough time to get real rest. The result is a serious safety problem because of the fatigue factor. Research on fatigue makes it clear that people who are too tired cannot function properly. Standard crews have been reduced over the years from five to two, but even with the new technology, it still takes people to run the trains. The fatigue issue has been brought to the Congress and to the bargaining table, but it never seems to get addressed. The safety hazard is great, especially given the increase in hazardous materials now being transported. This puts both the workers and the public at risk. Workers who choose to absent themselves because of fatigue are harassed. States should be able to enact this legislation because of the significance of the safety issue to the state. Everyone should have the right to work safely. The impact is not only on the worker, but the worker's family, too. Downsizing the railroad workforce has contributed to this problem.

**Testimony Against:** This issue is under the jurisdiction of the federal Hours of Service Act. Employees are protected if they report safety issues. In addition, work schedules are bargained. Railroads take fatigue issues very seriously. If employees are allowed to choose when to leave work, there could be serious loss of control over the workplace, with safety consequences and customer service issues. The "7/3" is working well and could be extended to other places if the employees request it. The short line railroads work closely with employees to get consensus on the schedules. They have procedures to relieve workers in the middle of shifts when necessary. The short lines have helped grow businesses on the Peninsula.

**Testified:** ( In support) Tom Retterath, Terry Montanye, Steven Sanders, Mitchell Newell, Larry McKillip, Tom Smillie, and James Worley, United Transportaion Union; Mark Ricci and Mike Elliott, Brotherhood of Locomotive Engineers; Terrilynn; and Greg Nickerson.

(Opposed) Bill Stauffacher and John Stevenson, Burlington-Northern Sante Fe Railroad Company; and Tim Schellberg and Tom Foster, Washington Shortline Association.